

Code of Ordinances  
City of Wagoner, Oklahoma

Adopted July 5, 2022

Albert Jones, Mayor

Councilmembers

Larry Abernathy	Patrick Sampson
Josh Bogle	Roger Schilling
Jimmy Butler	Anthony Wagoner
Steven Rhoden	Gayla Wright



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# Title 1

## GENERAL PROVISIONS

### Chapter 1

#### USE AND CONSTRUCTION OF THE CODE

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**Sec. 1-101. How code designated and cited.** The provisions embraced in this and the following chapters and sections shall constitute and be designated the *Code of Ordinances, City of Wagoner, Oklahoma*, and may be so cited.

**Sec. 1-102. Definitions and rules of construction.** In the construction of this Code and of all ordinances, the following rules of construction and definitions shall be observed, unless the context clearly requires otherwise:

*City.* The words “the City” or “this City” shall be construed to mean The City of Wagoner, Oklahoma;

*City boundaries.* The term “City boundaries” or “within the City” shall include not only the corporate limits of the City, but also any property which it owns or which is under its jurisdiction;

*Code.* The term “Code” or “this Code” shall be deemed to refer to the *Code of Ordinances, City of Wagoner, Oklahoma*;

*Computation of time.* The time within which an act is to be done, when expressed in days, shall be computed by excluding the first day and including the last day. If the last day be a Saturday, Sunday or a legal holiday designated by the Council, the time shall be extended until the end of the next business day of the City following such Saturday, Sunday or a legal holiday. If the time is expressed in hours the whole of Saturday, Sunday or of such legal holiday, from midnight to midnight, shall be excluded;

*Council.* Whenever the words “Council” or “City Council” are used they shall mean the Council of the City of Wagoner, Oklahoma;

*County.* Whenever the word “the County” or “this County” is used it shall mean the County of Wagoner, Oklahoma;

*Gender.* Every word importing the masculine gender shall extend to and be applied to the feminine gender and to the neuter gender unless the context clearly requires otherwise;

*Joint authority.* All words giving “joint authority” to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers;

*Law.* The word “law” includes applicable federal law, the Constitution and statutes of the State of Oklahoma, the ordinances of the City of Wagoner, Oklahoma, and when appropriate, any and all rules and regulations promulgated thereunder;

*Mayor.* The word “Mayor” means the mayor of the City of Wagoner, Oklahoma;

*Month.* The word “month” means a calendar month;

*Non-technical and technical words.* Words and phrases which are not specifically defined shall be construed according to the common and accepted usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning;

*Number.* A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing. Words used in the plural number may also include the singular unless the context clearly requires otherwise;

*Oath.* The word “oath” shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases, the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed”;

*Or, and.* The word “or” may be read “and,” and the word “and” may be read “or” if the sense requires it;

*Officials or officers, etc.* Whenever any officer, department or board or commission is referred to by title only, such reference shall mean the officers, agencies or departments of the City of Wagoner, Oklahoma, unless the context clearly requires otherwise;

*Owner.* The word “owner,” applied to a building or land, shall include a person with any legal or beneficial interest in the property, including any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or a part of the building or land;

*Person.* The word “person” shall extend and be applied to firms, corporations, partnerships, limited liability companies, voluntary associations, clubs, societies, trusts, or any other other legal entities and organizations as well as to individuals;

*Property.* The word “property” shall include real and personal property;

*Signature.* The word “signature” includes a properly witnessed mark when a person cannot write;

*Shall.* The word “shall” is mandatory;

*Sidewalk.* The word “sidewalk” shall mean that portion of a street between the curblin and the adjacent property intended for the use of pedestrians;

*Singular and plural.* Words in the plural include the singular, and *vice versa*;

*State.* The words “State” or “this State” shall be construed to mean the State of Oklahoma;

*Street.* The word “street” shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts, highways, courts, places, squares, curbs and all other public ways in the City which are dedicated and open to public use;

*Tenant, occupant.* The words “tenant” and “occupant,” when applied to a building or land, shall include any person who occupies or is in possession of the whole or part of such building or land, whether alone or with others;

*Tense.* Words used in the past or present tense include the future as well as the past and present;

*Week.* The word “week” means seven (7) days; and

*Year.* The word “year” means a calendar year.



**Sec. 1-103. References to Code; conflicts.**

**A.** All references to chapters, articles, divisions, or sections are to the chapters, articles, divisions and sections of this Code unless otherwise provided.

**B.** If the provisions of different chapters or articles of this Code conflict with or contravene each other, the provisions of each chapter or article shall prevail as to all matters and questions growing out of the subject matter of that chapter or article.

**Sec. 1-104. Catchlines and citations.** The catchlines of sections in this Code and citations included at the end of sections are intended to indicate the contents of the section and original historical source respectively, and shall not be deemed or taken to be titles and official sources of such sections; nor as any part of the sections; nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines, or citations, are amended or re-enacted.

**Sec. 1-105. Severability of parts of Code.** It is hereby declared to be the intention of the Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, or section of this Code or of any ordinance in this Code shall be declared unconstitutional, illegal or otherwise invalid by the valid judgment or decree of a court competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

**Sec. 1-106. Amendment of Code; codification; how made.**

**A. Codification of ordinances.** All ordinances passed subsequent to this Code or ordinances which amend, repeal or in any way affect this Code of ordinances may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, the repealed portions may be excluded from this code by omission from reprinted pages.

**B. Amendments, how made.** Amendments to any of the provisions of this Code may be made by amending the provisions by specific reference to the section of this Code in substantially the following language:

“Be it ordained by the Mayor and City Council of the City of Wagoner, Oklahoma, that Section \_\_\_\_\_ of the *Code of Ordinances of the City of Wagoner, Oklahoma*, is hereby amended to read as follows:” (Set out new provisions in full.)

**C. New Provisions, provision in ordinance.** When the council desires to enact an ordinance of a general and permanent nature on a subject not heretofore existing in this Code, which the Council desires to incorporate into this Code, a section in substantially the following language may be made part of the ordinance:

“Section \_\_\_\_\_. Be it ordained by the Mayor and City Council of the City of Wagoner, Oklahoma, that the provisions of this ordinance shall become and be made a part of the *Code of Ordinances of the City of Wagoner, Oklahoma*, and the sections of this ordinance may be re-numbered to accomplish this intention.”

**Sec. 1-107. Repeal.** All provisions of this Code desired to be repealed may be specifically repealed or by adoption of an ordinance inconsistent with such provisions, as the case may be.

**Sec. 1-108. Effect of repeal of ordinances.** The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect, nor shall the repeal of an ordinance affect any punishment or penalty incurred before the repeal took effect, or any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

## Chapter 2

### CORPORATE AND WARD BOUNDARIES

Sec. 1-201.	Map of City designated as official map. . . . .	1.4
Sec. 1-202.	Ward number and boundaries. . . . .	1.4

**Sec. 1-201. Map of City designated as official map.** A map of the City showing its territorial limits shall from time to time be adopted by the Council. Such map is hereby designated as the official map of the City, and the corporate limits as shown thereon are declared to be the true and correct corporate limits of the City, including all annexations made to the City through and including the date of the adoption thereof.

**Sec. 1-202. Ward number and boundaries.** The City shall be divided into four (4) wards as follows:

1. Ward One (1) shall be comprised of all that part of the City lying North of Cherokee Street and East of a line described as beginning at the intersection of West Cherokee Street and the centerline of the Union Pacific (formerly Missouri Pacific) Railroad; thence Northwesterly along said Centerline line to North Filmore Avenue; thence North along North Filmore Avenue to its intersection with North Seventh Street; thence East along North Seventh Street to the Centerline line of the Union Pacific (formerly MK&T) Railroad; thence Southeasterly along said Centerline line to North Fifth Street; thence East along North Fifth Street to its intersection with Washington Avenue; thence North along Washington Avenue to its intersection with North Ninth Street; thence East along North Ninth Street to its intersection with Parkinson Avenue; thence North along Parkinson Avenue to its intersection with North Thirteenth Street; thence West along North Thirteenth Street to its intersection with U.S. Highway 69; thence North along U.S. Highway 69 to its intersection with East 690 Road ;

2. Ward Two (2) shall be comprised of all that part of the City lying South of Cherokee Street and East of a line described as beginning at the intersection of West Cherokee Street and the centerline line of the Union Pacific (formerly MK&T) Railroad; thence Southeasterly along said centerline line to its intersection with South Ninth Street; thence West along South Ninth Street to its intersection with Filmore Avenue; thence South along Filmore Avenue to its intersection with South Fifteenth Street; thence East on South Fifteenth Street to its intersection with the centerline line of the Union Pacific (MK&T) Railroad; thence South along said centerline line to East 750 Road ;

3. Ward Three (3) shall be comprised of all that part of the City lying South of State Highway 51; East of a line described as beginning at the intersection of State Highway 51 and Susan Avenue, thence South along Susan Avenue and the East lines of Sections 7-T17N-R18E and 20-T17N-R18E to 750 Road; and West of a line described as beginning at the intersection of West Cherokee Street and the centerline line of the Union Pacific (formerly MK&T) Railroad; thence Southeasterly along said centerline line to its intersection with South Ninth Street; thence West along South Ninth Street to its intersection with Filmore Avenue; thence South along Filmore Avenue to its intersection with South Fifteenth Street; thence East on South Fifteenth Street to its intersection with the centerline line of the Union Pacific (MK&T) Railroad; thence South along said centerline line to East 750 Road; and

4. Ward Four (4) shall be comprised of all that part of the City lying South of State Highway 51; West of a line described as beginning at the intersection of State Highway 51 and Susan Avenue, thence South along Susan Avenue and the East lines of Sections 7-T17N-R18E and 20-T17N-R18E to 750 Road; and all that part of the City lying North of State Highway 51 and West of a line described as beginning at the intersection of West Cherokee Street and the centerline of the Union Pacific (formerly Missouri Pacific) Railroad; thence Northwesterly along said Centerline line to North Filmore Avenue; thence North along North Filmore Avenue to its intersection with North Seventh Street; thence East along North Seventh Street to the Centerline line of the Union Pacific

(formerly MK&T) Railroad; thence Southeasterly along said Centerline line to North Fifth Street; thence East along North Fifth Street to its intersection with Washington Avenue; thence North along Washington Avenue to its intersection with North Ninth Street; thence East along North Ninth Street to its intersection with Parkinson Avenue; thence North along Parkinson Avenue to its intersection with North Thirteenth Street; thence West along North Thirteenth Street to its intersection with U.S. Highway 69; thence North along U.S. Highway 69 to its intersection with East 690 Road.

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# Title 2

## ADMINISTRATION AND GOVERNMENT

### Chapter 1

#### GOVERNMENT ORGANIZATION

Sec. 2-101.	Statutory aldermanic form of government. . . . .	2.1
Sec. 2-102.	Elections. . . . .	2.1

**Sec. 2-101. Statutory aldermanic form of government.** The City is governed by the statutory aldermanic form of government. The powers of the City are vested in the Mayor and Council.

**Sec. 2-102. Elections.**

**A.** The following officials shall be elected at a general municipal election:

- Two council members from each ward;
- The Mayor;
- The City Clerk;
- The City Treasurer;
- The City Marshal.

The terms of such officials shall be staggered so that commencing in 1987, the following officials shall be elected to four-year terms:

- One Council member from each ward;
- The Mayor;
- The City Clerk;
- The City Marshal.

Commencing in 1989, the following officials shall to be elected to four-year terms:

- One Council member from each ward;
- The City Treasurer.

**B.** Commencing July 1, 1987, all elections of City officials shall be non-partisan.

### Chapter 2

#### MAYOR AND CITY COUNCIL

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**Sec. 2-201. Mayor, powers and duties.** The Mayor shall preside at meetings of the Council, and shall certify to the correct enrollment of all ordinances and resolutions passed by it. The Mayor shall not be considered a member of the Council for quorum or voting purposes; except that he may vote on questions under consideration by the Council when the Council is equally divided. He shall have the following additional powers and duties:

1. Appoint, subject to confirmation by the Council, a City Attorney and all heads or directors of administrative departments including members of boards and commissions and shall appoint all other administrative officers and employees of the City;
2. Sign the commissions and appointments of all officers, elected or appointed;
3. Remove or suspend city officers or employees against whom charges of incompetency, neglect, or violation of duty are made, until such time as the council shall take action on the charges;
4. Supervise and control all administrative departments, agencies, officers, and employees, act promptly on a charge of neglect or violation of duty of any officer or employee, and require any officer to account for and report to the Council in writing on any subject pertaining to the duties, powers, or functions of the officer when the Mayor deems necessary;
5. Prepare a budget annually and submit it to the Council;
6. He shall be responsible for the administration of the budget after it goes into effect;
7. Keep the Council advised of the financial condition and future needs of the City.
8. Submit to the Council a report after the end of the fiscal year on the finances and administrative activities of the City for the preceding year;
9. Make recommendations to the Council of measures for the well-being of the City;
10. Enforce the ordinances of the City;
11. Grant pardons for violation of City ordinances, including the remission of fines and costs, subject to the approval of the Council, after the reasons and order of remission or pardon have been entered on the journal;
12. Sign or veto any ordinance or resolution passed by the Council. Any ordinance or resolution vetoed by the Mayor may be passed over his veto by a vote of two-thirds ( $\frac{2}{3}$ ) of all the members of the Council. If the Mayor neglects or refuses to sign any ordinance or return it with his objections in writing at the next regular meeting of the Council, the ordinance shall become law without his signature.
13. Have such other powers, duties, and functions as may be prescribed by law or by ordinance.

**Sec. 2-202. Council, powers and duties.** The Council shall have the following powers and duties:

1. The Council shall elect from among its members a president. The Council president shall be elected in each odd-numbered year at the first Council meeting held after Council terms begin, or as soon thereafter as practicable, and he shall serve until his successor has been elected and qualified. The Council president shall act as Mayor during the absence, disability or suspension of the Mayor. He shall preside at all meetings of the Council in the absence of the Mayor and while presiding in the place of the Mayor, he shall have all the powers, rights, privileges and duties as other members of the Council. In the absence of the Mayor and the Council president, the Council shall elect from among its members an acting president to occupy the position temporarily.
2. Enact municipal legislation subject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;
3. Raise revenue, make appropriations, regulate salaries and wages, and all other fiscal affairs of the city, subject to such limitations as may now or hereafter be imposed by the Oklahoma Constitution and law;

4. Inquire into the conduct of any office, department or agency of the city, and investigate municipal affairs, or authorize and provide for such inquiries;
5. Create, change and abolish offices, departments and agencies other than those established by law; assign additional functions and duties to offices, departments and agencies established by this article; and define the duties, powers and privileges of all Officers which are not defined by this title;
6. Determine its own rules, and may compel the attendance of absent members in the manner and under penalties as the council may prescribe; and
7. Have such other powers, duties, and functions as may be prescribed by law or by ordinance.

**Sec. 2-203. Time of regular meetings of the Council.** The Council shall hold regular meetings on the first Monday of every month at 7:30 P.M. If such a Monday falls on a holiday, the regular meeting shall be held at that time on the next day which is not a holiday.

**Sec. 2-204. Special meetings.** Special meetings of the Council may be called by the Mayor or acting Mayor, or upon request or notice, in writing, signed by at least three (3) members of the Council, specifying the object and purpose of such meeting which shall be read length in the journal and no business shall be transacted at such meeting except that specified in the request.

**Sec. 2-205. Quorum.** A majority of all the members of the Council shall constitute a quorum to do business, but a smaller number may adjourn from day to day. The Council shall determine its own rules, and may compel the attendance of absent members in the manner and under penalties as the council may prescribe.

**Sec. 2-206. Place of meetings of the Council.** Every meeting of the council shall be held in the council chamber in the Municipal Building unless, in case of an emergency, the Mayor or the Council members designate another place in the City for the holding of the special meeting. An adjourned or continued meeting may be held at any other place within the City designated by the Council.

**Sec. 2-207. Rules of procedure.** *Robert's Rules of Order* shall govern meetings of the Council unless the contrary is required by this Code or in rules adopted by the Council.

**Sec. 2-208. Mandatory Attendance.** The Council may declare the office of a member vacant when such member has been absent from more than one-half (1/2) of all meetings of the Council, regular and special, held within any period of four (4) consecutive months.

## Chapter 3

### CITY CLERK AND TREASURER

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**Sec. 2-301. City Clerk, powers and duties.** The City Clerk shall be elected as provided in this code and shall have the following powers and duties:

1. Attend meetings of the Council and shall keep a journal of its proceedings, as provided by law.
2. Enter at length all ordinances passed by the Council in the Ordinance Book, as required by law.
3. Keep the seal of the City and affix it to documents as required by law or ordinance.
4. Collect or receive revenues and other money for the City as provided by law or ordinance, and deposit all such moneys promptly with the City Treasurer.
5. Keep proper books of accounts and other financial records, properly recording all financial transactions.
6. Have all other powers and duties prescribed by law or ordinance.

**Sec. 2-302. City Clerk, additional powers and duties.** The City Clerk shall have the following additional powers and duties:

1. Attend meetings of the Wagoner Public Works Authority and shall keep a journal of its proceedings, as provided by law.
2. Keep the seal of the Wagoner Public Works Authority and affix it to documents as required by law or ordinance.
3. Collect or receive revenues and other money for the Wagoner Public Works Authority as provided by law or ordinance, and shall deposit all such moneys promptly as required by law or ordinance.
4. Keep proper books of accounts and other financial records for the Wagoner Public Works Authority, properly recording all financial transactions.

**Sec. 2-303. City Treasurer, powers and duties.** The City Treasurer shall be elected as provided in this code and shall have the following powers and duties:

1. Receive all moneys of the City paid to him or her in accordance with law or ordinance and shall deposit daily all funds in such depositories as the council may designate.
2. Disburse such funds in the manner provided by applicable law or ordinance.
3. Keep proper books of accounts and other financial records, properly recording all financial transactions.
4. Have such other powers, duties, and functions as may be prescribed by law or ordinance.

## Chapter 4

### OTHER OFFICERS AND DEPARTMENTS

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**Sec. 2-401. Street Commissioner, duties.** The Street Commissioner shall be appointed by the Mayor and confirmed by the Council, and shall hold office at the pleasure of the Mayor and Council. The Street Commissioner shall be the head of the street department and shall have such powers and duties as may be provided by law or by ordinance. The Street Commissioner shall be the City Superintendent.

**Sec. 2-402. City Attorney, duties.** The City Attorney shall be appointed by the Mayor and confirmed by the Council, and shall hold office at the pleasure of the Mayor and Council. He shall have such qualifications as are prescribed by law and shall have the following duties:

1. Advise the Mayor and Council and each member thereof, and all City Officials, upon all questions of law.
2. Give opinions in writing when requested.
3. Represent the City as counsel in all litigation for or against the City.
4. Perform such other legal service on behalf of the City, its officers or employees, as may be required.



**Sec. 2-403. Health Department; Director.** The health department of the County and its director shall have the powers of a city health department and city health officer, respectively, for the City. References to health department and health officer or director of the health department in this Code and in other ordinances of the City shall mean the health department of the County and its director unless the context clearly indicates another meaning.

**Sec. 2-404. Other personnel to be appointed.** The Mayor, with approval of the Council, shall appoint such other personnel as may be necessary to exercise the powers and perform the duties relative to the functions lawfully imposed upon them or assumed by the City.

**Sec. 2-405. Marshall** The City Marshal shall be elected as provided in this Code, and shall have such powers and duties as may be provided by law and by the Mayor and Council. The Marshall shall be the Chief of Police.

**Sec. 2-406. Removal, suspension of personnel.** Except as may be otherwise provided by law, officers and employees of the City who are appointed by the Mayor with approval of the Council may be removed, terminated, or suspended, by the Mayor with approval of the Council.

**Sec. 2-407. Compensation of officers and employees.** The compensation of Officers and employees may be determined by motion or resolution adopted by the Council and may be changed at any time in the same manner; **PROVIDED HOWEVER**, the salary or emoluments of any officer elected or appointed for a definite term shall not be changed after his election or appointment.

**Sec. 2-408. Certain personnel to be bonded.**

**A.** Before entering upon their official duties the following Officers and employees shall provide a fidelity bond for the performance of their official duties:

1. The City Clerk,
2. The City Treasurer,
3. Such other Officers or employees as the Council may by motion or resolution require.

**B.** Bonds required by this section shall be in favor of the City, be in an amount determined by the Council, and be in cash or issued by a surety company approved by the Council.

**C.** The premiums for bonds required by this section shall be paid by the City.

## Chapter 5

### CITY RECORDS

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**Sec. 2-501. Record, definition.** As used in this chapter the term “record” shall mean all records of the City which are open for inspection, copying or mechanical reproduction pursuant to the *Oklahoma Open Records Act*, 51 O.S. Sec. 24A.1 *et seq.*

**Sec. 2-502. Records open.** All records kept and maintained by the City which are declared to be open to any person for inspection, copying, or mechanical reproduction pursuant to the *Oklahoma Open Records Act* shall be open for inspection, copying, or mechanical reproduction during regular business hours pursuant to provisions of this chapter.

**Sec. 2-503. Appointment of official custodians.** The following city officials are hereby appointed as official custodians for purposes of the *Oklahoma Open Records Act* and are charged with responsibility for compliance with that act with respect to the following records:

1. City Clerk. All records kept and maintained in the City Clerk's office and all other records not provided for elsewhere in this chapter;
2. City Treasurer. All records not on file in the office of the City Clerk and kept and maintained in the City Treasurer's office;
3. Marshall. All records not on file in the office of the City Clerk and kept and maintained in the city police department;
4. Fire chief. All records not on file in the office of the City Clerk and kept and maintained in the city fire department;
5. City Attorney. All records not on file in the office of the City Clerk and kept and maintained in the City Attorney's office;
6. Court clerk. All records not on file in the office of the City Clerk and kept and maintained in the municipal court; and
7. City librarian. All records not on file in the office of the City Clerk and kept and maintained in the city library.

**Sec. 2-504. Designation of additional record custodians.**

A. Each of the official custodians appointed in the preceding section is hereby authorized to designate any subordinate officers or employees to serve as record custodian. The record custodian shall have such duties and powers as are set out in the *Oklahoma Open Records Act*.

B. Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the City Clerk of such designation and the City Clerk shall maintain a register of all such designations.

**Sec. 2-505. Duties of record custodians.** Consistent with the policy, duties and procedures established by the *Oklahoma Open Records Act*, record custodians shall:

1. Provide assistance in a timely and efficient manner to persons requesting access to records, including assistance in identifying the record sought without excessive disruption of the essential functions of the City;
2. Ensure efficient and timely action and response to all applications for inspection of records;
3. Provide full access to access in a timely and efficient manner to records without excessive disruption of the essential functions of the City;
4. Protect records from damage and disorganization; and
5. Carry out the procedures adopted by this City for inspecting and copying records.

**Sec. 2-506. Requests to be directed to custodians.**

A. All requests for the inspection, copying, or mechanical reproduction of an open public record shall be made during regular business hours to the custodian charged with responsibility for the maintenance of the record; provided, if the custodian charged with responsibility for the maintenance of the record does not maintain at least thirty (30) regular business hours per week, the request may be made to the City Clerk.

**B.** Whenever a record custodian is presented with a request for inspection, copying, or mechanical reproduction of a record which record the custodian does not have in his possession and which he has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record and inform the person making the request to which custodian the request should be addressed, if known by the custodian receiving the request.

**Sec. 2-507. Requests, form.** A request for inspection or copying of records need not be in any particular form, but must:

1. Be in writing;
2. Be dated;
3. Be signed by the person making the request; and
4. Reasonably describe the record sought.

The record custodian may demand reasonable identification of any person requesting a record.

**Sec. 2-508. Mechanical reproduction, denial.** Mechanical reproduction of a record shall be denied if in the judgment of the record custodian any available means of mechanically reproducing the record is likely to cause damage to such record.

**Sec. 2-509. Request, denial.** In the event a record custodian shall deny a request for inspection, copying, or mechanical reproduction of a record, the record custodian shall forward a copy of request and of the denial to the City Superintendent.

**Sec. 2-510. Fees.** The Council shall, by motion or resolution, determine the fees charged by the City for the copying or mechanical reproduction of an open public record, which such fee shall in no event exceed the fees allowed by the *Oklahoma Open Records Act*.

## Chapter 6

### SOCIAL SECURITY

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**Sec. 2-601. Declaration of policy to come under coverage.** It is hereby declared to be the policy and purpose of the City to extend, at the earliest date, to the eligible employees and officials of the City the benefits of the system of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and all amendments thereto, and Sections 121 et seq. of Title 51 of the Oklahoma Statutes. In pursuance of this policy, the officers and employees of the city shall take such action as may be required by applicable state or federal laws or regulations.

**Sec. 2-602. Execution of agreement with state agency.** The Mayor is authorized and directed to execute all necessary agreements and amendments with the State Department of Human Services to accomplish the provisions of the preceding Section of this code.

**Sec. 2-603. Withholdings.** Withholdings from salaries or wages of employees and officials for the purposes provided in the preceding section are hereby authorized to be made in the amounts and at such times as may be required by applicable state and federal laws or regulations, and shall be paid over to the state or federal agency designated by the laws and regulations.

**Sec. 2-604. Contributions.** Employer contributions shall be paid from amounts appropriated for these purposes from available funds to the designated state or federal agency in accordance with applicable state or federal laws or regulations.

**Sec. 2-605. Records and reports.** The City shall keep such records and submit such reports as may be required by applicable state or federal laws or regulations.

**Sec. 2-606. Exclusions.** Excluded from this chapter authorizing the extension of social security benefits to City officers and employees are the following:

1. Any authority to make any agreement with respect to any position, employee or official covered or authorized to be covered as of the initial effective date of this chapter by any or official of the City; or
2. Any authority to make any agreement with respect to any position, employee or official for which compensation is on a fee basis, or any position, employee or official not authorized to be covered by applicable state or federal laws or regulations.

# Title 3

## ALCOHOLIC BEVERAGES AND MEDICAL MARIJUANA

### Chapter 1

#### ALCOHOLIC BEVERAGES

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#### Article A

##### TAXATION

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**Sec. 3-101. Terms and phrases.** All of the terms and phrases used in this article shall be given the same use and meaning as defined by the *Oklahoma Alcoholic Beverage Control Act*.

**Sec. 3-102. Occupation tax levied.**

**A.** There is hereby levied an annual occupation tax upon each person engaged within the City in any of the following occupations hereinafter named, in the sums respectively set opposite the designation of each such occupation:

Brewer	\$ 625.00
Small Brewer	\$ 65.00
Distiller	\$ 3,125.00
Winemaker	\$ 625.00
Rectifier	\$ 3,125.00
Wine and Spirit Wholesaler	\$ 1,500.00
Beer Distributor	\$ 5.00
Retail Spirits	\$ 450.00
Retail Wine	\$ 500.00
Retail Beer	\$ 250.00
Mixed Beverage	\$ 500.00
Renewal	\$ 450.00
Brewpub	\$ 500.00
Mixed Beverage/Caterer Combo	\$ 625.00
On Premises Beer and Wine	\$ 250.00
Renewal	\$ 225.00
Bottle club	\$ 500.00
Renewal	\$ 450.00
Caterer	\$ 500.00
Renewal	\$ 450.00
Annual Public Event	\$ 500.00
One-time Event	\$ 125.00

**B.** The occupation taxes prescribed herein shall be reduced to the extent necessary to conform to applicable state law reducing the state license fee to such person, but only to such extent as may be required to conform to applicable state law, it being the intention that this article shall levy the maximum tax allowable for the occupations on which there is hereby levied an occupation tax.

**C.** The occupation tax shall cover only the person paying the tax and no other person or a successor thereof, and shall not be refundable.

(Amended: Ordinance No. 937 10/1/2018)

**Sec. 3-103. Tax to be paid; expiration; proration.**

**A.** All occupation taxes herein provided shall be paid in advance, to the City Clerk, who shall issue a receipt therefor. The City Clerk shall record the name of such licensee and the address where he engages in his occupation. Such records shall be duly filed and kept in the permanent files of the City for at least five (5) years. Thereafter, upon resolution by the Council, such records may be destroyed.

**B.** All occupation taxes levied under the provisions of this article expire on June 30 of each year.

**C.** The amount of any occupation tax levied shall be computed prorata upon the months remaining in the year ending June 30 following. Such taxes paid on or before the fifteenth day of any month shall be on the basis of the first day of the month, and such taxes paid after the fifteenth day of any month shall be on the basis of the first day of the next succeeding month.

**Sec. 3-104. City Clerk to make report.** The City Clerk shall make and transmit to the Oklahoma Alcoholic Beverage Control Board an annual report showing the number and class of licensees upon which occupation taxes were levied, and the amount of money collected from such taxes.

**Sec. 3-105. Display of tax receipt.** A Licensee shall display his tax receipt in a conspicuous place in the premises wherein he carries on his occupation.

**Sec. 3-106. Payment of tax required; penalty.** It shall be a violation of this Code for any person to engage in any of the occupations taxed by this article without paying the occupation tax imposed therefor.

**Sec. 3-107. Additional penalty.** If the occupation tax due from any person under the provisions of this article remains due and unpaid for a period of ten (10) days, each day that such person engages in any of the occupations taxed by this article without paying the occupation tax imposed therefore shall be a continuing violation of this Code.

**Sec. 3-108. Recovery of tax.** All sums due from any person by reason of occupation taxes imposed by this article and all penalties accruing from such person by reason of failure to pay such tax shall be recoverable by the City in an action brought against such person in any court of competent jurisdiction. In any such suit, in addition to the tax and penalties, the City shall be entitled to recover interest, at the rate of ten percent (10%) per annum upon all sums due by way of tax and penalty from the date of accrual thereof, and costs of collections, judicial or otherwise, including reasonable attorney's fees, all to be determined by the court. Prosecution for an offense against the City arising out of the failure to pay a tax levied by this article regardless of the outcome thereof or its continued pendency, shall not constitute a defense or a bar in any manner to the collection of the tax and penalties, if any are due, as herein provided.

**Sec. 3-109. Violation of state law.** Any violation of any law of the State of Oklahoma in connection with any of the matters covered by this Article shall be construed to be a specific violation of this article, whether specifically covered by the provisions of this article or not.

## Article B

### REGULATION

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**Sec. 3-121. Purpose of article.** This article is enacted as an exercise of the police power of the City to preserve the public peace, safety, health, and good order thereof and to aid the enforcement of the policy of the State of Oklahoma as established by the *Oklahoma Alcoholic Beverage Control Act*.

**Sec. 3-122. Manufacture and sale; state license required.** No person shall produce, manufacture or sell any alcoholic beverages, or rectify any beverage, without having in his possession a valid license issued by the ABLE Commission.

**Sec. 3-123. Keeping or maintaining place in violation of law prohibited.** No person shall keep or maintain, or aid, assist or abet in keeping or maintaining, a place where alcoholic beverages are possessed, manufactured, sold, bartered or given away in violation of any of the provisions of this article or any public place where persons are permitted to resort for the purpose of drinking alcoholic beverages.

**Sec. 3-124. Transportation of intoxicating beverage in vehicles; exception.**

**A.** No person shall knowingly transport alcoholic beverages in any vehicle upon any public highway, street or alley unless in the original container which is unopened, the seal unbroken and the original cap in place.

**B.** Subsection A of this section shall not apply if the opened container is in the rear trunk or compartment or the spare tire compartment in a vehicle commonly known as a station wagon or panel truck, or in any outside compartment which is inaccessible to the driver or any passenger while the vehicle is in motion.

**Sec. 3-125. Sale to minors, incompetent or intoxicated persons prohibited, minors on premises.**

**A.** No person shall sell, furnish or give any alcoholic beverage to any person who is under the age of twenty-one (21) years, or to any person who is insane, mentally deficient or intoxicated;

**B.** No person who is under the age of twenty-one (21) years, shall enter, be or remain in the premises of a retail package store, or allow such a person to be, enter or remain in the store;

**C.** No person who is under the age of twenty-one (21) years, shall enter, be or remain in a separate or enclosed bar area of the premises of a licensee who holds a license to sell and dispense alcoholic beverages for consumption on the premises, nor shall such licensee allow a person who is under the age of twenty-one (21) years to enter, be or remain in such separate or enclosed bar area.

**Sec. 3-126. Employment of minors prohibited.** No licensee shall employ any person under the age of twenty-one (21) years, nor shall any person under twenty-one (21) years of age be employed, in the selling or handling of alcoholic beverages. However, a mixed beverage licensee, caterer, or special event licensee may employ servers who are eighteen (18) years of age or older, except in designated bar or lounge areas.

**Sec. 3-127. Minors in possession of intoxicating beverages in public prohibited.** No person under age twenty-one (21) years of age shall be in possession of any alcoholic beverage while such person is upon any public street, road, highway or in any public place.

**Sec. 3-128. Misrepresentation of age.** No person shall misrepresent his age either orally or in writing or by presenting false or altered documentation of age for the purpose of inducing any person to sell him alcoholic beverages.

**Sec. 3-129. Separate premises.** No person shall maintain, operate, or assist, in any manner, the maintenance or operation of a retail alcoholic beverage store or package store in premises which are not separated from adjoining premises in which any other goods, wares or merchandise are sold or services are rendered by nontransparent walls, broken only, if at all, by a passageway to which the public is not admitted.

**Sec. 3-130. Passageway.** No person shall take any alcoholic beverages through any passageway described in the preceding section for the purpose of delivery thereof in connection with a sale or such beverage.



**Sec. 3-131. Sale in containers.**

A. No person shall sell or deliver alcoholic beverages at a retail alcoholic beverage store other than:

1. In retail containers;
2. At ordinary room temperatures;
3. In the original package; and
4. For consumption off the premises.

B. No person owning and no person employed in or in any manner assisting in the maintenance and operation of a retail alcoholic beverage store shall suffer or permit any alcoholic beverage to be consumed, or any retail container of such beverage to be opened on the premises of such a store.

C. No person shall purchase any alcoholic beverage at retail or wholesale from any person other than a dealer licenses by the ABLE Commission.

**Sec. 3-132. Sales on credit.** Except as may be authorized by state law, no person shall sell any alcoholic beverage on credit at any retail package store.

**Sec. 3-133. Happy hours, solicitation, nudity.**

A. No licensee shall advertise or offer “happy hours” or any other means or inducements to stimulate the consumption of alcoholic beverages including:

1. Deliver more than two (2) alcoholic beverages to one person at a time;
2. Sell or offer to sell to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public;
3. Sell or offer to sell drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;
4. Increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week; or
5. Encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prize.

B. No licensee shall:

1. Allow any person on the premises where nonintoxicating or alcoholic beverages are sold or dispenses for consumption on the premises of the licensee where such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the breast below the top of the areola or any portion of the pubic area, buttocks or genitalia;
2. Permit any person to perform acts of, or acts which stimulate sexual acts;
3. Permit any person to use artificial devises or inanimate objects to depict any lewd activities; or
4. Permit the showing of films, still pictures, electronic reproduction or other visual reproduction depicting any of the prohibited acts in this section.

C. No licensee shall permit any drink solicitation, or request from a patron to purchase any non-intoxicating or intoxicating alcoholic beverage for consumption on the premises of the licensee, as that term is defined in this chapter.

**Sec. 3-134. Consumption of alcoholic beverage in public places.** No person within the City shall drink an alcoholic beverage in any public place, unless authorized by the Alcoholic Control Beverage Act, nor shall any person be intoxicated in a public place within the City.

**Sec. 3-135. Zoning ordinance.** No retail alcoholic beverage store, and no wholesale alcoholic beverage store, warehouse, brewery, distillery, winery or any other place, however described, for the manufacture or production or bottling of alcoholic beverages of any kind shall be located, maintained, or operated by a person, at any place within the City except at a location at which such an establishment is permitted by the zoning ordinance of the City as to retail package stores, and the clear implication of the state law as to the other establishments.

**Sec. 3-136. Location**

**A.** No person shall own, operate, maintain or be interested in any establishment listed in Section 3-102 of this Code which is located at a place within this City which is forbidden as a location for such store by laws of the state or ordinances of the City.

**B.** The location of a retail package store shall be prohibited within three hundred feet (300) from any church property primarily and regularly used for worship services and religious activities, or public school, provided, that establishment of a church or school after such premises have been licensed, shall not be a bar to the renewal of such license so long as such license has been in continuous force and effect. The distance specified in this section shall be measured from the nearest property line of such church or school to the nearest public entrance door of the premises of such package store along the street right-of-way line providing the nearest direct route usually traveled by pedestrians between such points. For the purpose of determining measured distance, the width of the street right of way shall not be considered. A license shall not be issued for a location on any City block where a school or church is located.

**Sec. 3-137. Time of sale.**

**A.** No person shall open for business or keep open for business a retail alcoholic beverage store, and no retail alcoholic beverage store shall sell alcoholic beverages in this City on any Sunday, New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day, or, while the polls are open, on the day of any general, primary, runoff primary or special election, whether national, state, county, or municipal, or on any other day except between the hours of 10:00 A.M. and 9:00 P.M.

**B.** No alcoholic beverages may be sold, dispensed, served or consumed on the premises of a mixed drink beverage licensee or bottle club between the hours of 2:00 A.M. and 7:00 A.M. No licensee shall permit any person, who has in his possession an open container, having as its contents an intoxicating alcoholic beverage, to remain in mixed beverage establishment between the hours of 2:15 A.M. to 7:00 A.M. No person, having in his possession an open container, having as its contents an intoxicating alcoholic beverage, shall remain in mixed beverage establishment between the hours of 2:15 A.M. to 7:00 A.M. For the purpose of this section, an open container shall mean any receptacle containing nonintoxicating or intoxicating an alcoholic beverage, including, but not by way of limitation, the original container of the beverage on which the original seal has been broken or opened.

**Sec. 3-138. Drunkenness in cafe prohibited.** No person, whether as owner, manager, operator, or employee of a cafe, restaurant, club, or any place of recreation, shall permit any person to be drunk or intoxicated in the place of business.

## Chapter 2

### MEDICAL MARIJUANA

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## Article A

### TAXATION

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**Sec. 3-201. Terms and phrases.** All of the terms and phrases used in this article shall be given the same use and meaning as defined by the *Oklahoma Medical Marijuana Authority*.

(New: Ordinance No. 938 10/1/2018)

**Sec. 3-202. Occupation tax levied.**

**A.** There is hereby levied an annual occupation tax upon each person engaged within the City in any of the following occupations hereinafter named, in the sums respectively set opposite the designation of each such occupation:

Medical Marijuana Dispensary	\$ 2,500.00
Medical Marijuana Grower	\$ 2,500.00
Medical Marijuana Processor	\$ 2,500.00
Medical Marijuana Researcher	\$ 2,500.00

**B.** The occupation taxes prescribed herein shall be reduced to the extent necessary to conform to applicable state law reducing the state license fee to such person, but only to such extent as may be required to conform to applicable state law, it being the intention that this article shall levy the maximum tax allowable for the occupations on which there is hereby levied an occupation tax.

**C.** The occupation tax shall cover only the person paying the tax and no other person or a successor thereof, and shall not be refundable.

(New: Ordinance No. 938 10/1/2018)

**Sec. 3-203. Tax to be paid; expiration; proration.**

**A.** All occupation taxes herein provided shall be paid in advance, to the City Clerk, who shall issue a receipt therefor. The City Clerk shall record the name of such licensee and the address where he engages in his occupation. Such records shall be duly filed and kept in the permanent files of the City for at least five (5) years. Thereafter, upon resolution by the Council, such records may be destroyed.

**B.** All occupation taxes levied under the provisions of this article expire on June 30 of each year.

**C.** The amount of any occupation tax levied shall be computed prorata upon the months remaining in the year ending June 30 following. Such taxes paid on or before the fifteenth day of any month shall be on the basis of the first day of the month, and such taxes paid after the fifteenth day of any month shall be on the basis of the first day of the next succeeding month.

(New: Ordinance No. 938 10/1/2018)

**Sec. 3-204. Display of tax receipt.** A Licensee shall display his tax receipt in a conspicuous place in the premises wherein he carries on his occupation.

(New: Ordinance No. 938 10/1/2018)

**Sec. 3-205. Payment of tax required; penalty.** It shall be a violation of this Code for any person to engage in any of the occupations taxed by this article without paying the occupation tax imposed therefore.

(New: Ordinance No. 938 10/1/2018)

**Sec. 3-206. Additional penalty.** If the occupation tax due from any person under the provisions of this article remains due and unpaid for a period of ten (10) days, each day that such person engages in any of the occupations taxed by this article without paying the occupation tax imposed therefore shall be a continuing violation of this Code.

(New: Ordinance No. 938 10/1/2018)

**Sec. 3-207. Recovery of tax.** All sums due from any person by reason of occupation taxes imposed by this article and all penalties accruing from such person by reason of failure to pay such tax shall be recoverable by the City in an action brought against such person in any court of competent jurisdiction. In any such suit, in addition to the tax and penalties, the City shall be entitled to recover interest, at the rate of ten percent (10%) per annum upon all sums due by way of tax and penalty from the date of accrual thereof, and costs of collections, judicial or otherwise, including reasonable attorney's fees, all to be determined by the court. Prosecution for an offense against the City arising out of the failure to pay a tax levied by this article regardless of the outcome thereof or its continued pendency, shall not constitute a defense or a bar in any manner to the collection of the tax and penalties, if any are due, as herein provided.

(New: Ordinance No. 938 10/1/2018)

**Sec. 3-208. Violation of state law.** Any violation of any law of the State of Oklahoma in connection with any of the matters covered by this article shall be construed to be a specific violation of this article, whether specifically covered by the provisions of this article or not.

(New: Ordinance No. 938 10/1/2018)

## Article B

### REGULATION

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**Sec. 3-221. Purpose.** This article is enacted as an exercise of the police power of the City to preserve the public space, health, and good order thereof and to aid the enforcement of the policies of the State of Oklahoma.

(New: Ordinance No. 938 10/1/2018)

**Sec. 3-222. Manufacture and sale; state license required.** No person shall grow, process, transport, or sell any medical marijuana product without having possession of a valid license issued by the Oklahoma Medical Marijuana Authority.

(New: Ordinance No. 938 10/1/2018)

**Sec. 3-223. Keeping or maintain place in violation of law prohibited.** No person shall keep or maintain, or aid, assist or abet in keeping or maintaining, a place where medical marijuana is possessed, grown, processed, transported, or sold in violation of any of the provisions of this article or any public place where persons permitted to resort for the purposes of consuming medical marijuana.

(New: Ordinance No. 938 10/1/2018)

**Sec. 3-224. Minors on premises.** (New: Ordinance No. 938 10/1/2018)

**Sec. 3-225. Employment of minors prohibited.** No person under the age of eighteen (18) shall enter, be, or remain in the premises of a commercial establishment unless the minor is a patient license holder and accompanied by their parent or legal guardian.

(New: Ordinance No. 938 10/1/2018)

**Sec. 3-226. Zoning Ordinance.** No commercial establishment shall be located, maintained, or operated by a person, at any place within the City except at a location at which such an establishment is permitted by the zoning ordinance of the City.

(New: Ordinance No. 938 10/1/2018)

**Sec. 3-227. Location.** The location of a medical marijuana dispensary shall be prohibited within one thousand (1,000) feet from any public or private school entrance.

(New: Ordinance No. 938 10/1/2018)

## Article C

### PUBLIC CONSUMPTION

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**Sec. 3-241. Definitions.** As used in this Article of following terms shall have the following meanings:

*Indoor area* means any indoor area that is owned, controlled or operated by the City of Wagoner, Oklahoma. An indoor area shall include, but not be limited to work areas, employee lunges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees or the public, and all space between a floor and ceiling that is predominately or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor areas at any given time, whether or not work is being performed.

*Outdoor area* means any covered area, partially covered area or area open to the sky that is on property owned, controlled or operated by the City of Wagoner, Oklahoma.

*Outdoor area* means any covered area, partially covered area or area open to the sky that is on property owned, controlled or operated by the City of Wagoner, Oklahoma.

*Recreational area* means any area that is owned, controlled or operated by the City of Wagoner, Oklahoma, which open to the general public for recreational purposes, regardless of any fee or age requirement. The term “Recreational Area” includes but is not limited to parks, picnic areas, playgrounds, sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, riding trails, swimming pools, roller- and ice- skating rinks, beaches surrounding lakes, and skateboard parks.

(New: Ordinance No. 938 10/1/2018)

**Sec. 3-242. Restrictions on use of medical marijuana.** All smokable, vaporized, vapable and e-cigarette medical marijuana and medical marijuana products smoked by a patient license holder is subject to the same restrictions for tobacco under Section 1-1521 et. seq. of Title 63 of Oklahoma statutes, commonly referred to as the “Smoking in Public Places and Indoor Workplaces Act.”

(New: Ordinance No. 938 10/1/2018)

**Sec. 3-243. Prohibition of certain medical marijuana products on City owned or operated property.** The use of smokable, vaporized, vapable and e-cigarette medical marijuana and medical marijuana products smoked by a patient license holder is prohibited in any indoor area, outdoor area, or recreational area as herein defined.

(New: Ordinance No. 938 10/1/2018)

# Title 4

## ANIMALS

### Chapter 1

#### ANIMAL REGULATIONS

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## Article A

### GENERAL PROVISIONS

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Sec. 4-110.	Vicious animal unlawful. . . . .	4.4
Sec. 4-111.	Wild fowl sanctuary. . . . .	4.4

**Sec. 4-101. Definitions.** The following words and phrases when used in this chapter shall have the meanings prescribed in this section except in those cases where the context clearly indicates a different meaning:

“*Animal*” means all vertebrate and invertebrate animals such as, but not limited to, any dog, cat, bovine, cattle, horses and other equines, hogs, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons and other fowl or wild mammals, reptiles, fish or birds that have been tamed, domesticated or captivated;

“*Animal control officer*” means the person or persons designated by the City Superintendent as an enforcement officer for this chapter;

“*Animal shelter*” means any premises officially designated by the City for the purpose of impounding and caring for all animals found in violation of this chapter;

“*At large*” means any dog or cat when he is not under restraint;

“*Cat*” means and includes any cat and every other animal of feline species at the age of two (2) months or older which is situated within the City limits for a period of fifteen (15) consecutive days or more;

“*Cattery*” means any premises operated for profit where there is being maintained or harbored a total of four (4) or more cats, except veterinary hospitals;

“*Confined on the premises*” means that condition in which a dog or cat is securely and physically confined and retained on and within the premises of the owner or keeper by means of walls or fences;

“*Dog*” means any animal of the canine species at the age of two (2) months or more which is situated within the City limits for a period of fifteen (15) days or more;

“*Harboring*” means any person who allows any animal to habitually remain or lodge or to be fed within his home, store, yard, enclosure or place of business or any other premises in which such person resides or controls, shall be considered as harboring such animal;

“*Kennel*” means any premise operated for profit where there is being maintained or harbored a total of four (4) or more dogs, except veterinary hospitals;



*“Owner”* means any person or group of persons possessing, keeping or harboring an animal or animals responsible for the care of maintenance or such animals, except a kennel or cattery proprietor as herein defined or a veterinary hospital;

*“Restraint”* means a dog or cat is under restraint within the meaning of this chapter if he is controlled by a leash not more than eight (8) feet in length or at heel beside a competent person and obedient to that person’s commands, or confined on the premises of his owner or keeper;

*“Stray”* means an animal which does not appear, upon reasonable inquiry, to have an owner; and

*“Vicious animal”* means one which has on two (2) or more occasions bitten or attacked a person or persons during a two (2) month period. Such animal shall be destroyed upon orders of the animal control officer or confined in an approved manner. An animal is also considered vicious when it has a disposition to attack persons or animals without provocation.

**Sec. 4-102. Animals not to be at large.**

**A.** No owner shall permit any animal (including fowl) owned, harbored, or kept by him to be at large within the City. It is unlawful for any animal to be at large at any time within the City.

**B.** It is unlawful to allow a dog to be at large in public parks, softball fields, baseball fields or soccer fields in the City.

**Sec. 4-103. Turning animals at large unlawful.** It is unlawful for any person to open any enclosure in which any animal is confined as required by ordinance so as to turn the animal at large, or in any manner to turn the animal at large.

**Sec. 4-104. Pasturing in public areas illegal.** It is unlawful for any person to stake, confine or pasture any animal on any public school ground or other public property, federal, state, City or other, on any railroad right-of-way, or on any property without the consent of the person owning or controlling such property.

**Sec. 4-105. Certain animals not be kept within City, exceptions.**

**A.** It is unlawful for any person to keep swine within the City, except in an enclosure awaiting immediate transportation and not remaining in the City for a period longer than twelve (12) hours, or in accordance with zoning regulations.

**B.** It is unlawful for any person to keep or maintain or suffer to be kept or maintained, any cow, horse, donkey, mule, pig, goat, sheep, goose, chicken, duck, turkey, guinea, or more than one rabbit upon any property or premises within the corporate limits of the City; except that one cow, horse, sheep, goat, donkey, or not more than twelve (12) domestic fowl may be kept in any pen or enclosure for each multiple of seven thousand (7,000) square feet in area of the pen or enclosure which is detached from any dwelling house, provided that such pen or enclosure where such animal or fowl are kept is maintained in a sanitary condition and not offensive or dangerous to the public health.

**C.** The keeping or maintaining, or permitting to be kept or maintained, any of the animals listed in Subsection A or B hereof within the City in violation of this section is hereby declared to be a public nuisance.

**Sec. 4-106. Animals which disturb prohibited.** It is unlawful for any person to keep or harbor within the City any dog or other animal which, by barking, howling or otherwise, disturbs the peace and quiet of any person.

**Sec. 4-107. Buildings for animals; construction and conditions.** Every stable or building wherein any animal is kept within the City shall be constructed of such material and in such manner that it can be kept clean and sanitary at all times and not be offensive or dangerous to the public health.

**Sec. 4-108. Animal control officer to inspect.** The animal control officer, upon complaint of any person, shall inspect any structure or place where an animal is kept, and may do so on his own initiative. He may issue any such reasonable order as he may deem necessary to the owner of the animal to causes the animal to be kept as provided in this chapter or in a manner so as not to constitute a nuisance. He may make a complaint before the municipal judge against any person for violation of any provision of this chapter or of any such reasonable order, but this procedure shall not abridge the right of others to make such complaint.

**Sec. 4-109. Animal a nuisance.**

**A.** An animal is a nuisance which by loud, frequent or habitual barking, howling, yelping or other noise or action disturbs any person or neighborhood within the City limits.

**B.** It is unlawful to own or harbor an animal which is determined to be a nuisance.

**Sec. 4-110. Vicious animal unlawful.** It is unlawful to harbor or own a vicious animal.

**Sec. 4-111. Wild fowl sanctuary.**

**A.** The entire area comprising the City is hereby declared to be a wild fowl sanctuary.

**B.** In the event starlings or other wild fowl increase in great numbers or are found congregating to such an extent within the limits of the City, as might be or become a hazard or nuisance to the inhabitants of the City, and when recommended by the health department of either the City, County, or state, or when ordered by the Council of the City, the chief of police of the City may, in cooperation with the Audubon Society, bird club, or humane society, if such exist in the City, cause the elimination of such fowl or as many of them as will remove the hazard.

## Article B

### DOG AND CAT VACCINATION, LICENSE TAGS AND TAX

Sec. 4-121.	Dogs and cats to be vaccinated. . . . .	4.4
Sec. 4-122.	Dog and cat license; registration; tag . . . . .	4.4
Sec. 4-123.	Tag to be placed on collar; lost tags. . . . .	4.5
Sec. 4-124.	Tags; counterfeiting; placing on other dogs or cats. . . . .	4.5

**Sec. 4-121. Dogs and cats to be vaccinated.** The owner of a dog or cat over six (6) months of age shall have the dog or cat vaccinated against rabies by a veterinarian or other authorized person every calendar year before the thirty-first day of December thereof; or, in the case of a pup or kitten, when it is six (6) months old. The person vaccinating the dog or cat shall furnish the owner a certificate of vaccination.

**Sec. 4-122. Dog and cat license; registration; tag**

**A.** A charge as set by the Council per year for every male or female dog more than three (3) months of age is hereby levied upon the owner of any such dog kept or harbored within the City.

**B.** The tax levied in this section shall not apply to a dog only temporarily brought and kept within the City for a period less than fifteen (15) days, nor to a dog brought within the City to participate in a dog show, not to a seeing eye dog when such dog is actually being used by a blind person to aid him in going from place to place, not to dogs being kept in kennels or pet shops for sale.

**C.** The owner shall pay the tax levied to the City Clerk for every calendar year at the following times:

1. Before the first day of April of each calendar year; or

2. If the dog is acquired or brought in the City after the first day of April, or becomes six (6) months of age after the first day of April, within fifteen (15) days after acquiring or bringing the dog into the City or its becoming six (6) months of age. The fee for part of the year may be prorated based on the number of days left in the year, but in no instance shall the fee be less than one-half (1/2) of the annual fee.

D. Before the City accepts any money offered in payment of the tax for a dog or issues a license for it, the person offering the tax shall present to the City Clerk the certificate of a veterinarian or other person legally authorized to immunize dogs, showing that the dog has been immunized against rabies during the calendar year, that is, since the thirty-first day of the preceding December.

E. The owner of the dog shall, at the time of paying the tax, register the dog by giving the name and address of the owner, the name, breed, color and sex of the dog, and such other reasonable information as the City Clerk may request.

F. The City Clerk thereupon shall deliver an original receipt to the taxpayer and also an appropriate tag to him for the dog. Such tag shall constitute a license for the dog.

**Sec. 4-123. Tag to be placed on collar; lost tags.**

A. The owner shall cause the tag received from the City Clerk to be affixed to the collar of the dog or cat upon which the tax has been paid so that the tag can easily be seen by officers of the City. The owner shall see that the tag is so worn by the dog or cat at all times.

B. In case the tag is lost before the end of the year for which it was issued, the owner may secure another by applying to the City Clerk, presenting to him the original receipt, and paying to him a fee as set by the Council.

**Sec. 4-124. Tags; counterfeiting; placing on other dogs or cats.** No person shall counterfeit, or attempt to counterfeit, any tag issued for a dog or cat as provided in this chapter, or take from any dog or cat a tag legally placed upon it, or place such tag upon a dog or cat for which the tag was not specifically issued.

## Article C

### ANIMAL SHELTER

Sec. 4-131.	Shelter established. . . . .	4.5
Sec. 4-132.	Animals to be impounded. . . . .	4.5
Sec. 4-133.	Breaking shelter. . . . .	4.6
Sec. 4-134.	Fees for impounding. . . . .	4.6
Sec. 4-135.	Owner may redeem. . . . .	4.6
Sec. 4-136.	Disposition, sale of impounded animals. . . . .	4.6

**Sec. 4-131. Shelter established.** A City animal shelter is hereby established under the jurisdiction of the police department. It shall be under the immediate control of an animal control officer or of such other person as may be officially designated. The person in charge of the shelter shall provide proper sustenance for all animals impounded and shall treat them in a humane manner. The City may contract with another agency for the use of a shelter maintained by the agency.

**Sec. 4-132. Animals to be impounded.**

A. The animal control officer, a police officer, or such other officer or employee of the City as may be authorized by the City Superintendent shall take into custody and impound any animal running at large or in violation of any provision of the ordinances of the City and may enter upon the premises of the owner or other private premises to take such animal into custody.

**B.** Any dog or cat picked up and impounded under the provisions of this title, other than a dog or cat suspected of biting or scratching a person, may be disposed of after five (5) days from the time of impoundment in the event that the owner of such dog or cat has failed to pay redemption charges. However, before this section is implemented, the animal control officer shall make a reasonable effort to notify the registered or known owner of the dog or cat of the dog or cat's impoundment. The method and manner of disposal or destruction of an impounded dog or cat shall be directed by the City Superintendent.

**C.** Any domestic dog or cat which is not effectively immunized against rabies viral encephalitis and is exposed to rabies through a rabid animal shall be euthanized immediately either by a veterinarian in charge or by the animal control officer or his agent; or such non-immunized, rabies-exposed dog or cat shall be strictly quarantined and observed for a period of six (6) months by either a veterinarian or by the local animal control officer or his agent, and such animal shall be immunized against rabies at least thirty (30) days prior to release. Expenses of quarantine and immunization shall be borne by the owner or other person responsible for the animal. Any domestic animal other than a dog or cat which is not immunized against rabies and is exposed to a rabid animal shall be immediately reported to the rabies control division of the State Department of Health for consultation concerning the disposition of that animal. Any immunized domestic animal which is exposed to a wild skunk, bat or carnivore where the biting animal has escaped or is not available for laboratory study, shall be considered exposed to rabies and shall be dealt with accordingly as stated in this section. Any effectively immunized domestic animal which is exposed to a rabid animal shall be immediately re-immunized and restrained by leashing and confinement, for a period of at least ninety (90) days.

**Sec. 4-133. Breaking shelter.** No unauthorized person shall:

1. Break or attempt to break open the shelter, or take or let out any animal therefrom;
2. Take or attempt to take from any officer or employee of the City any animal taken into custody as provided by this chapter; or
3. In any manner interfere with or hinder an officer or employee in the discharge of his duties relating to the taking into custody and impounding of animals as provided in this chapter.

**Sec. 4-134. Fees for impounding.**

**A.** The City Council by motion or resolution shall determine the fees to be charged for pick-up, impounding and keeping animals. In computing the fee, a fraction of a day during which an animal has been fed shall deemed a full day.

**B.** Any person redeeming an impounded animal shall pay the required fees to the City Clerk and present his receipt therefor to the person in charge of the pound before the latter releases the animal.

**Sec. 4-135. Owner may redeem.** An owner of an impounded animal or his agent may redeem the animal, prior to its sale or destruction as provided for herein, by paying the required fees against the animal and meeting any other requirements which may be prescribed in this chapter. However, when in the judgment of the animal control officer an animal should be destroyed for humane reasons, such animal may not be redeemed.

**Sec. 4-136. Disposition, sale of impounded animals.**

**A.** As soon as practicable after any animal of apparent value has been impounded, the animal control officer or other employee or officer impounding the animal, shall inform the marshal; and the marshal shall thereupon post a notice thereof at the marshal's office of the City. The notice shall describe the animal and notify the owner to pay the charges thereon and remove the same prior to a designated time. The notice shall also state that, unless the animal is redeemed, the animal will be sold or destroyed.

**B.** Sales herein provided for shall be for cash and shall be conducted by, or under the direction of the chief of police. If an impounded animal cannot be sold, he shall destroy the animal, or have it destroyed, in a humane manner, or otherwise dispose of it in a legal manner.

C. The purchaser of an animal at a sale held as provided herein shall acquire absolute title to the animal purchased.

D. The police department shall pay to the City Clerk all money received from the sale of impounded animals on the day it is received or on the next day upon which the office of the City Clerk is open for business.

## Article D

### CRUELTY TO ANIMALS

Sec. 4-141.	Cruelty to animals. . . . .	4.7
Sec. 4-142.	Poisoning animals. . . . .	4.7
Sec. 4-143.	Encouraging animals to fight. . . . .	4.7

**Sec. 4-141. Cruelty to animals.** It is unlawful for any person willfully and maliciously to pour on, or apply to, an animal any drug or other thing which inflicts pain on the animal or knowingly to treat an animal in a cruel or inhumane manner or knowingly to neglect an animal belonging to him or in his custody in a cruel or inhumane manner.

**Sec. 4-142. Poisoning animals.** It is unlawful for a person willfully to poison any dog or other animal except a noxious, non-domesticated animal or knowingly to expose poison so that the same may be taken by such an animal.

**Sec. 4-143. Encouraging animals to fight.** It is unlawful for any person to instigate or encourage a fight between animals; or to encourage one animal to attack, pursue or annoy another animal except a noxious, non-domesticated animal; or to keep a house, pit or other place used for fights between animals.

## Article E

### EXOTIC ANIMALS

Sec. 4-151.	Keeping of wild, exotic or dangerous animals, application. . . . .	4.7
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**Sec. 4-151. Keeping of wild, exotic or dangerous animals, application.**

**A.** For the purposes of this section, a wild, exotic or dangerous animal means an animal of the larger variety which is usually not a domestic animal and which can normally be found in the wild state, with or without means or vicious propensities, including, but not limited to, lions, tigers, leopards, panthers, bears, wolves, alligators, crocodiles, apes, foxes, elephants, rhinoceroses, and all forms of poisonous snakes, lynxes, raccoons, skunks, monkeys, and other like animals.

**B.** It is unlawful to keep or harbor any wild, exotic or dangerous animal in the City limits as a pet or for display or for exhibition purposes, whether gratuitously or for a fee, except as provided in Subsection C of this section.

**C.** This section shall not apply to such animals kept for temporary periods of time for exhibition purposes only, by circuses, zoos, and educational institutions. The term temporary periods of time as used in this chapter shall be defined as, and shall be limited to, a period of time not to exceed one week per year per applicant.

## Article F

### ZONING ORDINANCE TO PREVAIL

Sec. 4-161.	Zoning ordinance to prevail. . . . .	4.8
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**Sec. 4-161. Zoning ordinance to prevail.** In case of conflict between this chapter and the present or any future zoning ordinance, the provision of the zoning ordinance shall prevail and supersede the provision of this chapter.

## Article G

### RABIES PROCEDURES

Sec. 4-171.	Dogs and cats confined; when. . . . .	4.8
Sec. 4-172.	Confinement required. . . . .	4.8
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**Sec. 4-171. Dogs and cats confined; when.**

**A.** When the health officer or animal control officer determines and certifies that a dog, a cat, or other animal in the City or within five (5) miles of the City is or was infected with rabies and that an epidemic of rabies threatens the City, the Council, by resolution, may order all dogs to be confined, and if deemed desirable, all cats to be confined, during a period of time to be determined by the Council and within such radius of the City as determined by the Council. Such resolution or an adequate notice of its passage shall be published in a newspaper of general circulation within the City and shall go into effect on the day following such publication unless the resolution prescribes a later time.

**B.** The City Superintendent, when he deems it necessary due to health, safety and welfare conditions, may order emergency confinement of animals in the City or a one- mile radius thereof. Such order shall not be effective for a period of more than ten (10) days. Notice of the order shall be by posting a copy thereof in at least three (3) places in the City, one of such places shall be the City hall.

**C.** While any such resolution or order is in effect, it is unlawful for any owner to permit a dog or cat to be at large in violation of such resolution or order.

**D.** The resolution or order may be enforced by the animal control officer, the health officer or any police officer of the City.

**Sec. 4-172. Confinement required.** Any person owning, harboring, or keeping an animal, including a dog, cat, or other domestic pet which in the preceding ten (10) days has bitten any person shall, upon receipt of written or oral notice by the health officer or his designated representative, or the City animal control officer, place such animal in confinement under the supervision of a licensed veterinarian for a period of ten (10) days from the date the person was bitten.

**Sec. 4-173. Report of changes by veterinarian.** It is the duty of the veterinarian in whose supervision the animal is placed to keep the animal isolated in a separate pen or kennel and under observation for any symptoms of rabies. The veterinarian shall report immediately to the health officer or animal control officer any changes occurring in the condition of the animal. In the event the animal dies or develops rabies-like symptoms within the specified period of confinement, the animal head shall be removed immediately and packed in a shipping container in accordance with instructions published by the State Commissioner of Health and sent to the State Department of Health for examination.

**Sec. 4-174. Fees paid by owner.** Payment of any fees incurred and cost of boarding the animal shall be the responsibility of the person owning, keeping, or harboring the animal.

**Sec. 4-175. Confinement by City or County.** In the event there is not a licensed veterinarian to provide supervision for isolation and observation of the suspect animal within the County or where, in the opinion of the health officer or animal control officer, the person owning, keeping or harboring the suspect animal will pay for expenses, such person shall, in accordance with instructions received from the health officer, his designated representative, or animal control officer, keep the suspect animal securely penned and shall immediately advise the health officer or animal control officer of any changes occurring in the condition of the animal. In the even of the animal's death, or illness, the person so designated as responsible for the animal shall immediately notify the health officer or animal control officer and make arrangements for removal of the animal's head, properly packing it in a shipping container and shipping it to the State Department of Health.

**Sec. 4-176. Enforcement.** It is the duty of the animal control officer to enforce these regulations, and in the instances where responsibility for the suspect animal cannot be determined or established, he shall make arrangements for the isolation and observation of the animal.

**Sec. 4-177. Destruction or observation.** Any domestic dog or cat which is not effectively immunized against rabies virus encephalitis and is exposed to rabies through a rabid animal shall be destroyed immediately either by the veterinarian in charge or by the local animal control officer or agent; or such non-immunized, rabies-exposed dog or cat shall be strictly quarantined and observed for a period of six (6) months by either a veterinarian or by the local animal control officer or his agent. Such animal shall be immunized against rabies at least thirty (30) days prior to release. Expenses of quarantine and immunization shall be borne by the owner or other person responsible for the animal.

**Sec. 4-178. Animals considered exposed.** Any non-immunized domestic animal which is exposed to a wild skunk, bat or carnivore and the biting animal has escaped or is not available for laboratory study, shall be considered exposed to rabies and shall be dealt with according to this chapter.

**Sec. 4-179. Re-immunization of vaccinated, exposed animals.** Any effectively immunized domestic animal which is exposed to a rabid animal shall be immediately re-immunized and restrained, by leashing and confinement for a period of at least ninety (90) days.

## Article H

### PENALTIES

Sec. 4-181. Penalty. . . . .	4.9
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**Sec. 4-181. Penalty.** It shall be a violation of this Code for any person, firm or corporation to refuse or neglect to carry out any reasonable order made by the health officer or animal control officer pursuant to this title or violate any of the provisions of this title, and shall, upon conviction thereof, be fined or imprisoned as provided in Title 18 of this Code. The penalties provided for herein shall not be construed as exclusive.

## Chapter 2

### DOG AND CAT VACCINATION, LICENSE TAGS AND TAX

Sec. 4-201.	Dogs and cats to be vaccinated. . . . .	4.10
Sec. 4-202.	Dog and cat license; registration; tag . . . . .	4.10
Sec. 4-203.	Tag to be placed on collar; lost tags. . . . .	4.10
Sec. 4-204.	Tags; counterfeiting; placing on other dogs or cats. . . . .	4.11

**Sec. 4-201. Dogs and cats to be vaccinated.** The owner of a dog or cat over six (6) months of age shall have the dog or cat vaccinated against rabies by a veterinarian or other authorized person every calendar year before the thirty-first day of December thereof; or, in the case of a pup or kitten, when it is six (6) months old. The person vaccinating the dog or cat shall furnish the owner a certificate of vaccination.

**Sec. 4-202. Dog and cat license; registration; tag**

**A.** A charge as set by the Council per year for every male or female dog more than three (3) months of age is hereby levied upon the owner of any such dog kept or harbored within the City.

**B.** The tax levied in this section shall not apply to a dog only temporarily brought and kept within the City for a period less than fifteen (15) days, nor to a dog brought within the City to participate in a dog show, not to a seeing eye dog when such dog is actually being used by a blind person to aid him in going from place to place, not to dogs being kept in kennels or pet shops for sale.

**C.** The owner shall pay the tax levied to the City Clerk for every calendar year at the following times:

1. Before the first day of April of each calendar year; or
2. If the dog is acquired or brought in the City after the first day of April, or becomes six (6) months of age after the first day of April, within fifteen (15) days after acquiring or bringing the dog into the City or its becoming six (6) months of age. The fee for part of the year may be prorated based on the number of days left in the year, but in no instance shall the fee be less than one-half (1/2) of the annual fee.

**D.** Before the City accepts any money offered in payment of the tax for a dog or issues a license for it, the person offering the tax shall present to the City Clerk the certificate of a veterinarian or other person legally authorized to immunize dogs, showing that the dog has been immunized against rabies during the calendar year, that is, since the thirty-first day of the preceding December.

**E.** The owner of the dog shall, at the time of paying the tax, register the dog by giving the name and address of the owner, the name, breed, color and sex of the dog, and such other reasonable information as the City Clerk may request.

**F.** The City Clerk thereupon shall deliver an original receipt to the taxpayer and also an appropriate tag to him for the dog. Such tag shall constitute a license for the dog.

**Sec. 4-203. Tag to be placed on collar; lost tags.**

**A.** The owner shall cause the tag received from the City Clerk to be affixed to the collar of the dog or cat upon which the tax has been paid so that the tag can easily be seen by officers of the City. The owner shall see that the tag is so worn by the dog or cat at all times.

**B.** In case the tag is lost before the end of the year for which it was issued, the owner may secure another by applying to the City Clerk, presenting to him the original receipt, and paying to him a fee as set by the Council.



**Sec. 4-204. Tags; counterfeiting; placing on other dogs or cats.** No person shall counterfeit, or attempt to counterfeit, any tag issued for a dog or cat as provided in this chapter, or take from any dog or cat a tag legally placed upon it, or place such tag upon a dog or cat for which the tag was not specifically issued.

## Chapter 3

### ANIMAL SHELTER

Sec. 4-301.	Shelter established. . . . .	4.11
Sec. 4-302.	Animals to be impounded. . . . .	4.11
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Sec. 4-305.	Owner may redeem. . . . .	4.12
Sec. 4-306.	Disposition, sale of impounded animals. . . . .	4.12

**Sec. 4-301. Shelter established.** A City animal shelter is hereby established under the jurisdiction of the police department. It shall be under the immediate control of an animal control officer or of such other person as may be officially designated. The person in charge of the shelter shall provide proper sustenance for all animals impounded and shall treat them in a humane manner. The City may contract with another agency for the use of a shelter maintained by the agency.

**Sec. 4-302. Animals to be impounded.**

**A.** The animal control officer, a police officer, or such other officer or employee of the City as may be authorized by the City Superintendent shall take into custody and impound any animal running at large or in violation of any provision of the ordinances of the City and may enter upon the premises of the owner or other private premises to take such animal into custody.

**B.** Any dog or cat picked up and impounded under the provisions of this title, other than a dog or cat suspected of biting or scratching a person, may be disposed of after five (5) days from the time of impoundment in the event that the owner of such dog or cat has failed to pay redemption charges. However, before this section is implemented, the animal control officer shall make a reasonable effort to notify the registered or known owner of the dog or cat of the dog or cat's impoundment. The method and manner of disposal or destruction of an impounded dog or cat shall be directed by the City Superintendent.

**C.** Any domestic dog or cat which is not effectively immunized against rabies viral encephalitis and is exposed to rabies through a rabid animal shall be euthanized immediately either by a veterinarian in charge or by the animal control officer or his agent; or such non-immunized, rabies-exposed dog or cat shall be strictly quarantined and observed for a period of six (6) months by either a veterinarian or by the local animal control officer or his agent, and such animal shall be immunized against rabies at least thirty (30) days prior to release. Expenses of quarantine and immunization shall be borne by the owner or other person responsible for the animal. Any domestic animal other than a dog or cat which is not immunized against rabies and is exposed to a rabid animal shall be immediately reported to the rabies control division of the State Department of Health for consultation concerning the disposition of that animal. Any immunized domestic animal which is exposed to a wild skunk, bat or carnivore where the biting animal has escaped or is not available for laboratory study, shall be considered exposed to rabies and shall be dealt with accordingly as stated in this section. Any effectively immunized domestic animal which is exposed to a rabid animal shall be immediately re-immunized and restrained by leashing and confinement, for a period of at least ninety (90) days.

**Sec. 4-303. Breaking shelter.** No unauthorized person shall:

1. Break or attempt to break open the shelter, or take or let out any animal therefrom;

2. Take or attempt to take from any officer or employee of the City any animal taken into custody as provided by this chapter; or
3. In any manner interfere with or hinder an officer or employee in the discharge of his duties relating to the taking into custody and impounding of animals as provided in this chapter.

**Sec. 4-304. Fees for impounding.**

- A. The City Council by motion or resolution shall determine the fees to be charged for pick-up, impounding and keeping animals. In computing the fee, a fraction of a day during which an animal has been fed shall deemed a full day.
- B. Any person redeeming an impounded animal shall pay the required fees to the City Clerk and present his receipt therefor to the person in charge of the pound before the latter releases the animal.

**Sec. 4-305. Owner may redeem.** An owner of an impounded animal or his agent may redeem the animal, prior to its sale or destruction as provided for herein, by paying the required fees against the animal and meeting any other requirements which may be prescribed in this chapter. However, when in the judgment of the animal control officer an animal should be destroyed for humane reasons, such animal may not be redeemed.

**Sec. 4-306. Disposition, sale of impounded animals.**

- A. As soon as practicable after any animal of apparent value has been impounded, the animal control officer or other employee or officer impounding the animal, shall inform the marshal; and the marshal shall thereupon post a notice thereof at the marshal's office of the City. The notice shall describe the animal and notify the owner to pay the charges thereon and remove the same prior to a designated time. The notice shall also state that, unless the animal is redeemed, the animal will be sold or destroyed.
- B. Sales herein provided for shall be for cash and shall be conducted by, or under the direction of the chief of police. If an impounded animal cannot be sold, he shall destroy the animal, or have it destroyed, in a humane manner, or otherwise dispose of it in a legal manner.
- C. The purchaser of an animal at a sale held as provided herein shall acquire absolute title to the animal purchased.
- D. The police department shall pay to the City Clerk all money received from the sale of impounded animals on the day it is received or on the next day upon which the office of the City Clerk is open for business.

## Chapter 4

### CRUELTY TO ANIMALS

Sec. 4-401.	Cruelty to animals. . . . .	4.12
Sec. 4-402.	Poisoning animals. . . . .	4.12
Sec. 4-403.	Encouraging animals to fight. . . . .	4.13

**Sec. 4-401. Cruelty to animals.** It is unlawful for any person willfully and maliciously to pour on, or apply to, an animal any drug or other thing which inflicts pain on the animal or knowingly to treat an animal in a cruel or inhumane manner or knowingly to neglect an animal belonging to him or in his custody in a cruel or inhumane manner.

**Sec. 4-402. Poisoning animals.** It is unlawful for a person willfully to poison any dog or other animal except a noxious, non-domesticated animal or knowingly to expose poison so that the same may be taken by such an animal.

**Sec. 4-403. Encouraging animals to fight.** It is unlawful for any person to instigate or encourage a fight between animals; or to encourage one animal to attack, pursue or annoy another animal except a noxious, non-domesticated animal; or to keep a house, pit or other place used for fights between animals.

Chapter 5

EXOTIC ANIMALS

Sec. 4-501. Keeping of wild, exotic or dangerous animals, application. . . . . 4.13

**Sec. 4-501. Keeping of wild, exotic or dangerous animals, application.**

**A.** For the purposes of this section, a wild, exotic or dangerous animal means an animal of the larger variety which is usually not a domestic animal and which can normally be found in the wild state, with or without means or vicious propensities, including, but not limited to, lions, tigers, leopards, panthers, bears, wolves, alligators, crocodiles, apes, foxes, elephants, rhinoceroses, and all forms of poisonous snakes, lynxes, raccoons, skunks, monkeys, and other like animals.

**B.** It is unlawful to keep or harbor any wild, exotic or dangerous animal in the City limits as a pet or for display or for exhibition purposes, whether gratuitously or for a fee, except as provided in Subsection C of this section.

**C.** This section shall not apply to such animals kept for temporary periods of time for exhibition purposes only, by circuses, zoos, and educational institutions. The term temporary periods of time as used in this chapter shall be defined as, and shall be limited to, a period of time not to exceed one week per year per applicant.

Chapter 6

ZONING ORDINANCE TO PREVAIL

Sec. 4-601. Zoning ordinance to prevail. . . . . 4.13

**Sec. 4-601. Zoning ordinance to prevail.** In case of conflict between this chapter and the present or any future zoning ordinance, the provision of the zoning ordinance shall prevail and supersede the provision of this chapter.

Chapter 7

RABIES PROCEDURES

Sec. 4-701. Dogs and cats confined; when. . . . . 4.14

Sec. 4-702. Confinement required. . . . . 4.14

Sec. 4-703. Report of changes by veterinarian. . . . . 4.14

Sec. 4-704. Fees paid by owner. . . . . 4.14

Sec. 4-705. Confinement by City or County. . . . . 4.14

Sec. 4-706. Enforcement. . . . . 4.14

Sec. 4-707. Destruction or observation. . . . . 4.14

Sec. 4-708. Animals considered exposed. . . . . 4.15

Sec. 4-709. Re-immunization of vaccinated, exposed animals. . . . . 4.15

**Sec. 4-701. Dogs and cats confined; when.**

**A.** When the health officer or animal control officer determines and certifies that a dog, a cat, or other animal in the City or within five (5) miles of the City is or was infected with rabies and that an epidemic of rabies threatens the City, the Council, by resolution, may order all dogs to be confined, and if deemed desirable, all cats to be confined, during a period of time to be determined by the Council and within such radius of the City as determined by the Council. Such resolution or an adequate notice of its passage shall be published in a newspaper of general circulation within the City and shall go into effect on the day following such publication unless the resolution prescribes a later time.

**B.** The City Superintendent, when he deems it necessary due to health, safety and welfare conditions, may order emergency confinement of animals in the City or a one- mile radius thereof. Such order shall not be effective for a period of more than ten (10) days. Notice of the order shall be by posting a copy thereof in at least three (3) places in the City, one of such places shall be the City hall.

**C.** While any such resolution or order is in effect, it is unlawful for any owner to permit a dog or cat to be at large in violation of such resolution or order.

**D.** The resolution or order may be enforced by the animal control officer, the health officer or any police officer of the City.

**Sec. 4-702. Confinement required.** Any person owning, harboring, or keeping an animal, including a dog, cat, or other domestic pet which in the preceding ten (10) days has bitten any person shall, upon receipt of written or oral notice by the health officer or his designated representative, or the City animal control officer, place such animal in confinement under the supervision of a licensed veterinarian for a period of ten (10) days from the date the person was bitten.

**Sec. 4-703. Report of changes by veterinarian.** It is the duty of the veterinarian in whose supervision the animal is placed to keep the animal isolated in a separate pen or kennel and under observation for any symptoms of rabies. The veterinarian shall report immediately to the health officer or animal control officer any changes occurring in the condition of the animal. In the event the animal dies or develops rabies-like symptoms within the specified period of confinement, the animal head shall be removed immediately and packed in a shipping container in accordance with instructions published by the State Commissioner of Health and sent to the State Department of Health for examination.

**Sec. 4-704. Fees paid by owner.** Payment of any fees incurred and cost of boarding the animal shall be the responsibility of the person owning, keeping, or harboring the animal.

**Sec. 4-705. Confinement by City or County.** In the event there is not a licensed veterinarian to provide supervision for isolation and observation of the suspect animal within the County or where, in the opinion of the health officer or animal control officer, the person owning, keeping or harboring the suspect animal will pay for expenses, such person shall, in accordance with instructions received from the health officer, his designated representative, or animal control officer, keep the suspect animal securely penned and shall immediately advise the health officer or animal control officer of any changes occurring in the condition of the animal. In the event of the animal's death, or illness, the person so designated as responsible for the animal shall immediately notify the health officer or animal control officer and make arrangements for removal of the animal's head, properly packing it in a shipping container and shipping it to the State Department of Health.

**Sec. 4-706. Enforcement.** It is the duty of the animal control officer to enforce these regulations, and in the instances where responsibility for the suspect animal cannot be determined or established, he shall make arrangements for the isolation and observation of the animal.

**Sec. 4-707. Destruction or observation.** Any domestic dog or cat which is not effectively immunized against rabies virus encephalitis and is exposed to rabies through a rabid animal shall be destroyed immediately either by the veterinarian in charge or by the local animal control officer or agent; or such non-immunized, rabies-exposed dog or cat shall be strictly quarantined and observed for a period of six (6) months by either a veterinarian or by the local animal control officer or his agent. Such animal

shall be immunized against rabies at least thirty (30) days prior to release. Expenses of quarantine and immunization shall be borne by the owner or other person responsible for the animal.

**Sec. 4-708. Animals considered exposed.** Any non-immunized domestic animal which is exposed to a wild skunk, bat or carnivore and the biting animal has escaped or is not available for laboratory study, shall be considered exposed to rabies and shall be dealt with according to this chapter.

**Sec. 4-709. Re-immunization of vaccinated, exposed animals.** Any effectively immunized domestic animal which is exposed to a rabid animal shall be immediately re-immunized and restrained, by leashing and confinement for a period of at least ninety (90) days.

## Chaper 8

### PENALTIES

Sec. 4-801.     Penalty. . . . .	4.15
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**Sec. 4-801. Penalty.** It shall be a violation of this Code for any person, firm or corporation to refuse or neglect to carry out any reasonable order made by the health officer or animal control officer pursuant to this title or violate any of the provisions of this title, and shall, upon conviction thereof, be fined or imprisoned as provided in Title 18 of this Code. The penalties provided for herein shall not be construed as exclusive.

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# Title 5

## BUILDING CODE AND REGULATIONS

### Chapter 1

#### BUILDING CODE

Sec. 5-101.	Adoption of building code. . . . .	5.1
Sec. 5-102.	Additions And Changes To Building Code. . . . .	5.1
Sec. 5-103.	Carports . . . . .	5.1

**Sec. 5-101. Adoption of building code.** That a certain document, at least one (1) copy of which is on file on the office of the City Clerk of the City of Wagoner being marked and designated as *International Building Code* as published by the International Code Council, Inc. be and is hereby adopted as the Building Code of the City of Wagoner, State of Oklahoma; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said *International Building Code*, 2015 Edition, are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 5-102 of this Code.

(Amended: Ordinance No. 926 12/5/2016)

**Sec. 5-102. Additions And Changes To Building Code.** The following sections are hereby revised as follows:

1. Section 101.1. Insert: “City of Wagoner”;
2. Section 1612.3. Insert: “City of Wagoner”; and
3. Section 1612.3. Insert: “Flood Insurance Study, dated January 1, 2014”;

(Amended: Ordinance No. 926 12/5/2016)

**Sec. 5-103. Carports**

**A.** A “carport” as used in this section is a structure attached to or adjacent to a residential dwelling for the purpose of parking passenger cars therein. “Setback” as used in this section is the minimum distance from a City street or alley or from an adjoining property line that a carport may be constructed.

**B.** Carports may be constructed within the incorporated limits of the City in the following manner:

1. Both sides of a carport must be open with no more than four (4) braces in a side;
2. Both ends of a carport must be open with no more than three (3) braces in an end;
3. In counting braces, the corner brace will be counted both for a side and an end; and
4. The finish on a carport must be consistent with the design and finish of the residence served.

**C.** The setback requirement for a carport shall be five (5) feet and it will be the duty of the person desiring to construct a carport to provide a survey of his or her property showing the location of the residence on the lot and the distance of the residence from adjoining City street or alley and the plans for the carport showing that the five (5) foot setback requirement is met.

**D.** The regulations providing for building permits, as set out in this Code, shall govern permits for the construction of carports.

## Chapter 2

### PLUMBING CODE

Sec. 5-201.	Adoption of plumbing code. . . . .	5.2
Sec. 5-202.	Additions And Changes To Plumbing Code. . . . .	5.2
Sec. 5-203.	Plumbers, registration, permits and fees, bond. . . . .	5.2

**Sec. 5-201. Adoption of plumbing code.** That certain document, at least one copy of which is on file in the office of the City Clerk in the City of Wagoner, being marked and designated as *International Plumbing Code*, 2015 Edition, including Appendix Chapters, as published by the International Code Council, Inc. be and is hereby adopted as the Plumbing Code of the City of Wagoner for the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the City of Wagoner and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such *International Plumbing Code*, 2015 edition, published by the International Code Council, Inc., on file in the office of the City of Wagoner are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 5-202 of this Code.

(Amended: Ordinance No. 926 12/5/2016)

**Sec. 5-202. Additions And Changes To Plumbing Code.** The following sections are hereby revised as follows:

1. Section 101.1. Insert: "City of Wagoner";
2. Section 106.6.2. Insert: "As provided in the *Code of Ordinances of the City of Wagoner, Oklahoma*";
3. Section 106.6.3. Replace section with: "There shall be no refunds of permit fees.";
4. Section 108.4. Deleted;
5. Section 108.5. Deleted;
6. Section 305.4.1. Insert: "18" and delete "(mm)" at two locations.
7. Section 903.1. Insert: "18".

(Amended: Ordinance No. 926 12/5/2016)

**Sec. 5-203. Plumbers, registration, permits and fees, bond.**

**A.** The phrases and words "plumbing contractor", "master plumber", "journeyman plumber," "plumber's apprentice", and "plumbing", when used in the ordinances, regulations and other official acts and communications of this City, shall have the meanings respectively prescribed for them by Sections 1001 et seq. of Title 59 of the Oklahoma Statutes, the state plumbing license law, unless the context clearly indicates a different meaning.

**B.** It is unlawful for any person to engage in the business, trade, or occupation of a plumbing contractor (otherwise known as a master plumber), or of a journeyman plumber, or of a plumber's apprentice, in this City unless he is registered with the City and has a current and valid certificate of registration issued by the City.

**C.** Only persons who have current and valid licenses as plumbing contractors or as journeyman plumbers issued by the State Commissioner of Health as provided by the state plumbing license law may register as such with the City. Only persons who have current and valid certificates of registration as plumber apprentices issued by the State Commissioner of Health, as provided by the law, may register as such with the City.



**D.** Upon application to the City, the City shall register such applicants and issue to them certificates of registration. An applicant for registration as a plumbing contractor shall also furnish a bond as required by the City. Such City certificates shall not be valid after the termination or expiration of the State licenses or certificates. Registration certificates of plumbing contractors and journeyman plumbers issued as provided herein shall expire each year on June 30. The City's certificates of plumber's apprentices shall expire when their State certificates expire.

**E.** An applicant for a plumbing contractor's certificate of registration, after complying with the laws of the State and with the established City Code, and after payment of the fee hereinafter specified, and showing proof of bonds shall be registered by the City. Plumbing contractors desiring to renew their registration shall furnish the same evidence of compliance with state licensing laws and the bond is required as set forth by City Code.

**F.** All plumbing contractor registrations not renewed within ninety (90) days after the date of expiration thereof shall be canceled, and a new application for registration must be made and the fee for a new registration paid.

**G.** The fee for registration and renewal shall be as set by the City Council by motion or resolution.

**H.** In addition to the registration fee and before the registration certificate for a plumbing contractor is issued, each plumbing contractor shall file with the City Clerk a surety bond in the sum of One Thousand Dollars (\$1,000.00) to be approved by the City. The conditions of the bonds shall be that the principal shall save the City harmless for all damage to all persons or property resulting from, or in any way growing out of, any opening or excavation made by him, his agent, servant, or employee, in an alley, street, or public highway, sidewalk, or curb. The bond shall also be conditioned that the principal shall pay any and all losses occasioned by him, his agent, servant, or employee and that he will comply with all ordinances of the city. The bond shall be approved by the City.

**I.** The City Council, upon at least ten (10) days' notice and adequate opportunity for a public hearing, may revoke the City registration of any plumbing contractor or journeyman plumber for violating any provision of the ordinances or regulations of the City relating to the installation of plumbing or for any other cause specified in the state plumbing license law.

## Chapter 3

### ELECTRICAL CODE

Sec. 5-301.	Adoption of electrical code. . . . .	5.3
Sec. 5-302.	Additions, insertions and changes to electrical code. . . . .	5.4
Sec. 5-303.	Underwriters Laboratories, Inc. . . . .	5.4
Sec. 5-304.	City Council may make special rulings. . . . .	5.4
Sec. 5-305.	Permit required for electrical installations, issuance. . . . .	5.4
Sec. 5-306.	Inspection, fee. . . . .	5.4
Sec. 5-307.	Installation not to be concealed until approved. . . . .	5.4
Sec. 5-308.	Work "Roughed In". . . . .	5.4
Sec. 5-309.	Premises not to be connected until installation approved. . . . .	5.5
Sec. 5-310.	Electrician's registration required, bond. . . . .	5.5
Sec. 5-311.	Electrical inspector. . . . .	5.5
Sec. 5-312.	Failure to comply. . . . .	5.5
Sec. 5-313.	Authority to enter buildings. . . . .	5.6

**Sec. 5-301. Adoption of electrical code.** That certain documents, at least one copy of which is on file in the office of the City Clerk in the City of Wagoner, being marked and designated as National Electrical Code, 2014 Edition (NEC® 2014), as published by the National Fire Protection Association be and is hereby adopted as the Electrical Code of the City of Wagoner for safeguarding of persons and

property from hazards arising from the use electricity in the City of Wagoner and each and all of the regulations, provisions, conditions and terms of such National Electrical Code, 2014 Edition, published by the National Fire Protection Association, Inc. on file in the office of the City of Wagoner are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 5-302 of this Code.

(Amended: Ordinance No. 926 12/5/2016)

**Sec. 5-302. Additions, insertions and changes to electrical code.** The following sections are hereby revised as follows:

1. Section 2 Deleted

(Amended: Ordinance No. 926 12/5/2016)

**Sec. 5-303. Underwriters Laboratories, Inc.** All electrical equipment installed or used shall be in conformity with the provisions of this chapter, the statutes of the state and the provisions of this chapter, the statutes of the state and any orders, rules and regulations issued by the authority thereof, and with approved electrical standards for safety to persons or to property. Unless by this chapter, by a statute of the state or any orders, rules or regulations issued by authority thereof, a specific type or class of electrical equipment is disapproved for installation and use, conformity with the standards or Underwriters' Laboratories, Inc., shall be prima facie evidence of conformity with approved standards for safety to persons or to property.

**Sec. 5-304. City Council may make special rulings.** The Council of the City, by motion or resolution, shall have the authority to make special rulings, when circumstances warrant, for the safeguarding of life and property and the improvement of electrical installations. In all cases persons engaged in the installing of electrical equipment and holding an electrical license must be notified by letter of these decisions.

**Sec. 5-305. Permit required for electrical installations, issuance.**

**A.** It is unlawful for any person to install any electrical wiring, fixtures, or apparatus in or on any building or structure in the corporate limits of this city or make extensions to any existing electrical installations without first securing a permit from the City.

**B.** The fee for an electrical permit shall be as prescribed by motion or resolution of the City Council.

**C.** When from good and sufficient cause, it is necessary to have electricity on any installation before final certificate can be issued, the electrical inspector may issue a temporary permit, provided that all the parts to which current is applied are in a safe and satisfactory condition. Before a temporary permit is issued, the party receiving the same shall pay the city the permit fee. The temporary permit shall run for thirty (30) days. If at the end of the thirty (30) days the installation is still incomplete, another permit must be taken out for the next thirty (30) days, and for each succeeding thirty (30) days.

**Sec. 5-306. Inspection, fee.** The City Council by motion or resolution shall prescribe an inspection fee to be paid to the city when electrical installations are inspected by the electrical inspector.

**Sec. 5-307. Installation not to be concealed until approved.** It is unlawful for any person, firm, partnership, corporation or individual to conceal or cause to be concealed, any electrical equipment, used for electrical light, heat or power, until they know the installation has been approved by the electrical inspector; and a tag in the switch cabinet, or attached to the service equipment properly signed and dated, will be sufficient notice.

**Sec. 5-308. Work "Roughed In".**

**A.** It is unlawful for any person to engage in the business, trade or vocation of electrical contractor, journeyman electrician or apprentice electrician without a certificate of registration as such secured from the electrical inspector. The initial fee for an electrical contractor's registration certificate, and any renewal, to be paid to the city, shall be as set by the city council. A registration certificate must be renewed within ninety (90) days following expiration of the certificate. After the expiration, an application for a new certificate must be requested and the initial fee paid again. All such certificates

shall expire each year on June 30. This certificate is not transferable to any other individual or company.

**B.** All “roughing in” work shall include service switch, branch blocks or panel boards and cabinets. When installing conduit, metal molding or armored cable, all connections must be soldered, taped, be free from grounds and left ready for attachment of fixtures and other appliances. All lights in bathrooms and damp places must be controlled by wall switch and preferably of double pole type.

**Sec. 5-309. Premises not to be connected until installation approved.** It is unlawful for any person, firm or corporation to connect, or cause to be connected any service or building, for the supply of electrical current for light, heat or power, until he or it has been notified by the electrical inspector that electric work has been inspected and approved and is ready for electric service.

**Sec. 5-310. Electrician’s registration required, bond.**

**A.** It is unlawful for any person to engage in the business, trade or vocation of electrical contractor, journeyman electrician or apprentice electrician without a certificate of registration as such secured from the electrical inspector. The initial fee for an electrical contractor’s registration certificate, and any renewal, to be paid to the city, shall be as set by the city council. A registration certificate must be renewed within ninety (90) days following expiration of the certificate. After the expiration, an application for a new certificate must be requested and the initial fee paid again. All such certificates shall expire each year on June 30. This certificate is not transferable to any other individual or company.

**B.** Every person receiving a certificate as an electrical contractor shall file with the city a bond in the sum of One Thousand Dollars (\$1,000.00) executed with a surety company authorized to do business in the state. The bond shall be conditioned that the principal will install all electrical wiring, fixtures, appliances, and equipment in accordance with the law and the ordinances and other regulations of the city relating to electrical installations and in a workmanlike manner; that the principal shall, without further cost to the person for whom the work was done, remedy and defective or faulty work caused by poor workmanship or inferior or non-standard material; and that the city may be fully indemnified and held harmless from any and all costs, expenses or damage resulting from the performance of his work as an electrical contractor.

**C.** The bond must be approved by the city. No certificate shall be issued to any such person until the bond shall have been filed and approved. Any such certificate issued shall be valid only while the bond is in effect.

**D.** No person may be registered by the city unless he possesses the appropriate current and valid license issued by the State Department of Health.

**E.** For the installing of bell, telephone or signal systems not using over twelve (12) volts, not registration certificate or bond will be required. The installation of same must comply with all other requirements of the ordinances of the City.

**F.** After adequate opportunity for a hearing and for just cause, the city council may revoke the certificate of an electrical contractor, an apprentice electrician, or a journeyman electrician.

**Sec. 5-311. Electrical inspector.** The office of electrical inspector is appointed and removed by the Mayor. Deputy or assistant inspectors may also be appointed and removed by the Mayor to assist the electrical inspector with inspections or enforcement and administration of this chapter.

**Sec. 5-312. Failure to comply.**

**A.** Any person, firm or corporation who shall fail to correct any defect or defects in his or her work or to meet the required standards after having been given notice of the unfit condition by the electrical inspector within a reasonable time, shall be refused any other permit until such defect or defects have been corrected, and shall be subject to revocation of license for continual defective work or either upon conviction for violation of the provisions of this chapter.

**B.** Upon failure to comply with this chapter, the electrical inspector shall have authority, after due notice, to cut out electric current in the locality concerned.

**Sec. 5-313. Authority to enter buildings.** The electrical inspector and his or her agents in the discharge of their duties may enter any building or premises at any reasonable time, and upon the refusal of the owner, agent, or occupant to allow such inspections, he shall be deemed guilty of an offense.

## Chapter 4

### MECHANICAL CODE

Sec. 5-401.	Adoption of mechanical code. . . . .	5.6
Sec. 5-402.	Additions, insertions and changes to electrical code. . . . .	5.6
Sec. 5-403.	Mechanics; registration, permits and fees, bond. . . . .	5.6

**Sec. 5-401. Adoption of mechanical code.** That certain document at least one copy of which is on file in the office of the City Clerk in the City of Wagoner, being marked and designated as *International Mechanical Code®*, 2015 edition, including Appendix Chapters, as published by the International Code Council, Inc. be and is hereby adopted as the Mechanical Code of the City of Wagoner for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided in the City of Wagoner and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such *International Mechanical Code®*, 2015 edition, published by the International Code Council, Inc. on file in the office of the City of Wagoner are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 5-402 of this Code.

(Amended: Ordinance No. 926 12/5/2016)

**Sec. 5-402. Additions, insertions and changes to electrical code.** The following sections are hereby revised as follows:

1. Section 101.1. Insert: “City of Wagoner”;
2. Section 106.5.2. Deleted;
3. Section 106.5.3. Deleted;
4. Section 108.4. Deleted; and
5. Section 108.5. Deleted.

(Amended: Ordinance No. 926 12/5/2016)

**Sec. 5-403. Mechanics; registration, permits and fees, bond.**

**A.** The phrases and words “journeyman mechanic,” “mechanical apprentice,” “mechanical contractor,” and “mechanic,” when used in the ordinances, regulations and other official acts and communications of this City, shall have the meanings respectively prescribed for them by Sections 1850.1 et seq. of Title 59 of the Oklahoma Statutes, the State mechanic’s license law, unless the context clearly indicates a different meaning.

**B.** Only persons who have current and valid licenses as mechanical contractors or as journeyman mechanics issued by the State Commissioner of Health as provided by the state mechanical license law may register as such with the city. Only persons who have current and valid certificates of registration as mechanical apprentices issued by the State Commissioner of Health, as provided by the law, may register as such with the City.

**C.** Upon application to the City, the City shall register such applicants and issue to them certificates of registration. An applicant for registration as a mechanical contractor shall also furnish a bond as required by the City. Such City certificates shall not be valid after the termination or expiration of the State licenses or certificates. Registration certificates of mechanical contractors and journeyman

mechanics issued as provided herein shall expire each year on June 30. The city certificates of mechanical apprentices shall expire when their State certificates expire.

**D.** An applicant for a mechanical contractor's certificate of registration, after complying with the laws of the State and with the established this Code, and after payment of the fee hereinafter specified, and showing proof of bonds shall be registered by the City. Mechanical contractors desiring to renew their registration shall furnish the same evidence of compliance with State licensing laws and the bond is required as set forth by the this code.

**E.** All mechanical contractor registrations not renewed within ninety (90) days after expiration thereof shall be cancelled.

## Chapter 5

### EXISTING BUILDING CODE

Sec. 5-501.	Adoption of existing building code. . . . .	5.7
Sec. 5-502.	Additions, insertions and changes to electrical code. . . . .	5.7

**Sec. 5-501. Adoption of existing building code.** That certain document, at least one copy of which is on file in the office of the City Clerk in the City of Wagoner, being marked and designated as *International Existing Building Code®*, 2015 edition including Appendix Chapters, as published by the International Code Council, Inc. be and is hereby adopted as the Existing Building Code of the City of Wagoner for regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing buildings, including historic buildings, as provided herein; providing for the issuance of permits and collections of fees thereof; and each and all of the regulations, provisions, conditions and terms of such *International Existing Building Code®*, 2015 edition, published by the International Code Council, Inc. on file in the office of the City of Wagoner are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 5-502 of this Code.

(Amended: Ordinance No. 926 12/5/2016)

**Sec. 5-502. Additions, insertions and changes to electrical code.** The following sections are hereby revised as follows:

1. Section 101.1. Insert: "City of Wagoner";
2. Section 114. Deleted; and
3. Section 1301.2 Insert: "December 5, 2016".

(Amended: Ordinance No. 926 12/5/2016)

## Chapter 6

### RESIDENTIAL CODE

Sec. 5-601.	Adoption of residential code. . . . .	5.7
Sec. 5-602.	Additions, insertions and changes to residential code. . . . .	5.8

**Sec. 5-601. Adoption of residential code.** That certain document, at least one copy (1 copy) of which is on file in the office of the City Clerk of the City of Wagoner, being marked and designated as *International Residential Code*, including Appendix Chapters, as published by the International Code Council, Inc. and is hereby adopted as the Residential Code of the City of Wagoner for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation,

replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses not more than three stories in height in the City of Wagoner, and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such *International Residential Code*, 2009 edition, published by the International Code Council, Inc. on file in the office of the City Clerk are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 5-602 of this Code.

(Amended: Ordinance No. 926 12/5/2016)

**Sec. 5-602. Additions, insertions and changes to residential code.** The following sections are hereby revised as follows:

1. Section 101.1. Insert: “City of Wagoner”;
2. Section R114. Deleted; and
3. Section 106.5.3. Deleted; and
4. STable R301.2 (1) Insert: “24 inches”; and
5. Section P2603.6.1. Delete: “minimum of [number] inches (mm) below finished grade at the point of septic tank connection.” Insert: “a distance in inches as determined by the city.” Delete: “a minimum of [number] inches (mm) below grade.” Insert: “a distance in inches as determined by the city.”

(Amended: Ordinance No. 926 12/5/2016)

## Chapter 7

### FUEL GAS CODE

Sec. 5-701.	Adoption of fuel gas code. . . . .	5.8
Sec. 5-702.	Additions, insertions and changes to fuel gas code. . . . .	5.8

**Sec. 5-701. Adoption of fuel gas code.** That certain document, at least one copy of which is on file in the office of the City Clerk in the City of Wagoner, being marked and designated as *International Fuel Gas Code*, including Appendix Chapters, as published by the International Code Council, Inc. be and is hereby adopted as the Fuel Gas Code of the City of Wagoner for regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collections of fees thereof; and each and all of the regulations, provisions, conditions and terms of such *International Fuel Gas Code*, 2009 edition, published by the International Code Council, Inc. on file in the office of the City of Wagoner are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 5-702 of this Code.

**Sec. 5-702. Additions, insertions and changes to fuel gas code.** The following sections are hereby revised as follows:

1. Section 101.1. Insert: “City of Wagoner”;
2. Section 106.5.2. Deleted;
3. Section 106.5.3. Deleted;
4. Section 108.4. Deleted; and
5. Section 108.5. Deleted.

# Chaper 8

## FIRE CODE

Sec. 5-801.	Adoption of fire code. . . . .	5.9
Sec. 5-802.	Additions, insertions and changes to fuel gas code. . . . .	5.9

**Sec. 5-801. Adoption of fire code.** That certain document, at least one copy is on file in the office of the City Clerk of the City of Wagoner, being marked and designated as the *International Fire Code*, including Appendix as published by the International Code Council, Inc. be and is hereby adopted as the Fire Code of the City of Wagoner for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Wagoner and providing for the issuance of permits for hazardous uses or operations; and each and all of the regulations, provisions, conditions and terms of such *International Fire Code*, 2009 edition, published by the International Code Council, Inc., on file in the office of the City of Wagoner are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 5-802 of this Code.

**Sec. 5-802. Additions, insertions and changes to fuel gas code.** The following sections are hereby revised as follows:

1. Section 101.1. Insert: “City of Wagoner”;
2. Section 109.3 Insert: “subject to the penalties set forth in this Title.”;
3. Section 111.4 Insert: ”subject to the penalties set forth in this Title.”

# Chaper 9

## LIFE SAFETY CODE

Sec. 5-901.	Adoption of life safety code. . . . .	5.9
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**Sec. 5-901. Adoption of life safety code.** That certain document, at least one copy is on file in the office of the City Clerk of the City of Wagoner, being marked and designated as the *NFPA 101 Life Safety Code*, including Appendix as published by the National Fire Protection Association, be and are hereby adopted as the Life Safety Code of the City of Wagoner and each and all of the regulations, provisions, conditions and terms of such *NFPA 101 Life Safety Code*, 2006 edition, as published by the National Fire Protection Association on file in the office of the City of Wagoner is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

# Chaper 10

## FLOOD PREVENTION

Article A.	FINDINGS OF FACT, PURPOSE AND METHODS . . . . .	5.10
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Sec. 5-1003.	Statement of Purpose. . . . .	5.11
Sec. 5-1004.	Methods of Reducing Flood Losses. . . . .	5.11
Article B.	DEFINITIONS . . . . .	5.11

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## Article A

### FINDINGS OF FACT, PURPOSE AND METHODS

Sec. 5-1001.	Statutory Authorization. . . . .	5.10
Sec. 5-1002.	Findings of Fact. . . . .	5.10
Sec. 5-1003.	Statement of Purpose. . . . .	5.11
Sec. 5-1004.	Methods of Reducing Flood Losses. . . . .	5.11

**Sec. 5-1001. Statutory Authorization.** The Legislature of the State of Oklahoma has in 11 O.S. §§ 41-47, as amended, delegated the responsibility to local governmental units to adopt ordinances designed to minimize flood losses. Therefore, the City of Wagoner, Oklahoma, ordains the following, to become effective immediately.

**Sec. 5-1002. Findings of Fact.**

**A.** The flood hazard areas of the City of Wagoner are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

**B.** These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.



**Sec. 5-1003. Statement of Purpose.** It is the purpose of this Chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Ensure that potential buyers are notified that property is in a flood area.

**Sec. 5-1004. Methods of Reducing Flood Losses.** In order to accomplish its purposes, this Chapter uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

## Article B

### DEFINITIONS

Sec. 5-1021. Definitions. . . . .	5.11
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**Sec. 5-1021. Definitions.** Unless specifically defined below, words or phrases used in this Chapter shall be interpreted to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

1. “*Accessory structure*” means a structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Examples of accessory structures include but are not limited to garages and storage sheds.
2. “*Area of special flood hazard*” is the land in the floodplain within the City of Wagoner subject to a one percent or greater chance of flooding in any given year.
3. “*Base flood*” means the flood having a one percent chance of being equaled or exceeded in any given year.
4. “*Base flood elevation*” means the elevation in feet above mean sea level of the base flood or 1% chance flood.

5. “*Basement*” means any area of the building having its floor sub-grade (below ground level) on all sides.
6. “*BFE*” means base flood elevation.
7. “*CFR*” means Code of Federal Regulations.
8. “*Critical feature*” means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
9. “*Development*” means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
10. “*Development Permit*” means a permit issued by the City of Wagoner Floodplain Administrator which authorizes development in a special flood hazard area in accordance with this Chapter.
11. “*Elevated building*” means a non-basement building built, in the case of a building in Zones AE, A, and X, to have the top of the elevated floor adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In the case of Zones AE, A, and X, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.
12. “*Existing construction*” means for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”
13. “*Existing manufactured home park or subdivision*” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before August 4, 1972.
14. “*Expansion to an existing manufactured home park or subdivision*” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
15. “*FEMA*” means the Federal Emergency Management Agency.
16. “*FIRM*” means Flood Insurance Rate Map.
17. “*Flood*” or “*flooding*” means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters, or
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
18. “*Flood Insurance Rate Map*” means an official map of the City of Wagoner on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the City of Wagoner.
19. “*Flood insurance study*” is the official report provided by FEMA for City of Wagoner which contains flood profiles, water surface elevation of the base flood, as well as the floodway width, section area and mean velocity.
20. “*Floodplain Administrator*” means a person accredited by the OWRB and designated by the City Council of the City of Wagoner to administer and implement laws, ordinances and regulations relating to the management of floodplains.

- 21.** *“Floodplain or flood-prone area”* means any land area susceptible to being inundated by water from any source (see definition of flood).
- 22.** *“Floodplain management”* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
- 23.** *“Floodplain management regulations”* means zoning codes and ordinances, subdivision regulations, building codes, health regulations, special purpose regulations and ordinances (such as floodplain, grading and erosion control regulations and ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- 24.** *“Flood protection system”* means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within City of Wagoner subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- 25.** *“Floodway”* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. A floodway is located within areas of special flood hazard established in Sec. 5-1032 of this *Code*. A floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles.
- 26.** *“Functionally dependent use”* means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- 27.** *“Highest adjacent grade”* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 28.** *“Historic structure”* means any structure that is:
- a.** Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b.** Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c.** Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
  - d.** Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - i.** By an approved state program as determined by the Secretary of the Interior, or
    - ii.** Directly by the Secretary of the Interior in states without approved programs.
- 29.** *“Levee”* means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.
- 30.** *“Levee system”* means a flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**31.** “*Lowest floor*” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of Title 44 CFR.

**32.** “*Manufactured home*” means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

**33.** “*Manufactured home park or subdivision*” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**34.** “*Mean sea level*” means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on the City of Wagoner’s Flood Insurance Rate Map are referenced.

**35.** “*New construction*” means, for the purpose of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by the City of Wagoner City Council and includes any subsequent improvements to such structures.

**36.** “*New manufactured home park or subdivision*” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the City of Wagoner.

**37.** “*OWRB*” means the Oklahoma Water Resources Board.

**38.** “*Recreational vehicle*” means a vehicle which is:

- a. Built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projections;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**39.** “*Start of construction*” (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Public Law 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**40.** “*Structure*” means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**41.** “*Substantial damage*” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**42.** “*Substantial improvement*” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before “start of construction” of the improvement. This includes structures that have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

**a.** Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions, or

**b.** Any alteration of an “historic structure” provided that the alteration would not preclude the structure’s continued designation as an “historic structure.”

**43.** “*Variance*” is a grant of relief by the City of Wagoner City Council to a person from the terms of this Chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Chapter. (For full requirements see Section 60.6 of Title 44 CFR.)

**44.** “*Violation*” means the failure of a structure or other development to be fully compliant with this City of Wagoner flood damage prevention ordinance.

**45.** “*Water surface elevation*” means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

## Article C

### GENERAL PROVISIONS

Sec. 5-1031.	Lands to which this chapter applies. . . . .	5.15
Sec. 5-1032.	Basis for establishing the areas of special flood hazard. . . . .	5.15
Sec. 5-1033.	Establishment of development permit. . . . .	5.15
Sec. 5-1034.	Compliance. . . . .	5.15
Sec. 5-1035.	Abrogation and greater restrictions. . . . .	5.16
Sec. 5-1036.	Interpretation. . . . .	5.16
Sec. 5-1037.	Warning and disclaimer of liability. . . . .	5.16

**Sec. 5-1031. Lands to which this chapter applies.** This flood damage prevention ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Wagoner, Oklahoma.

**Sec. 5-1032. Basis for establishing the areas of special flood hazard.** The areas of special flood hazard identified by FEMA in a scientific and engineering report entitled, The Flood Insurance Study for Wagoner County, Oklahoma and Incorporated Areas dated April 17 2012, with the accompanying Flood Insurance Rate Map (FIRM) are hereby adopted on April 17 2012, by reference and declared to be a part of this Chapter. However, until this date the current effective FIRM Flood Insurance Rate Map City of Wagoner Oklahoma Wagoner County dated October 19 1982, shall be used for this purpose until April 17 2012.

**Sec. 5-1033. Establishment of development permit.** A Development Permit shall be required to ensure conformance with the provisions of this floodplain management ordinance.

**Sec. 5-1034. Compliance.** No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this Chapter and other applicable regulations.

**Sec. 5-1035. Abrogation and greater restrictions.** This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and any other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**Sec. 5-1036. Interpretation.** In the interpretation and application of this Chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

**Sec. 5-1037. Warning and disclaimer of liability.** The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Wagoner or any official or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder.

## Article D

### ADMINISTRATION

Sec. 5-1041.	Designation of the floodplain administrator. . . . .	5.16
Sec. 5-1042.	Duties and responsibilities of the floodplain administrator. . . . .	5.16
Sec. 5-1043.	Permit procedures. . . . .	5.17
Sec. 5-1044.	Variances. . . . .	5.18

**Sec. 5-1041. Designation of the floodplain administrator.** The City Council of the City of Wagoner shall from time to time designate a Floodplain Administrator to administer and implement the provisions of this Chapter and appropriate sections of National Flood Insurance Program regulations in Title 44 CFR pertaining to floodplain management.

**Sec. 5-1042. Duties and responsibilities of the floodplain administrator.** Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Become accredited by the OWRB in accordance with Title 82 O.S. §§ 1601-1618, as amended.
2. Review permit applications to determine whether the proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding.
3. Review, approve or deny all applications for Development Permits required by this Chapter.
4. Review proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval are required.
5. Make the necessary interpretation where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).
6. Notify, in riverine situations, adjacent communities and the OWRB prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the FEMA.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

8. Shall require the developer/applicant to determine and provide the base flood elevation on a FEMA Elevation Certificate as well as other data as required in order to administer the provisions of Article V.

9. When a floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE as delineated on the Wagoner County FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the City of Wagoner.

10. After a disaster or other type of damage occurrence to structures in the City of Wagoner, determine if the residential and non-residential structures and manufactured homes have been substantially damaged, and enforce the substantial improvement requirement.

11. Maintain a record of all actions involving an appeal from a decision of the City Council.

12. Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter.

**Sec. 5-1043. Permit procedures.** The procedure for obtaining a Development permit shall be as follows:

1. An Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

a. Elevation in relation to mean sea level of the lowest floor (including basement) of all new and substantially improved structures; and

b. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

2. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this Chapter and the following relevant factors:

a. The danger to life and property due to flooding or erosion damage;

b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

c. The danger that materials may be swept onto other lands to the injury of others;

d. The compatibility of the proposed use with existing and anticipated development;

e. The safety of access to the property in times of flood for ordinary and emergency vehicles;

f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

h. The necessity to the facility of a waterfront location, where applicable;

i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and

j. The relationship of the proposed use to the comprehensive plan for that area.

3. The Floodplain Administrator or City Council, as applicable, may approve certain development in Zones A or AE delineated on the Wagoner County FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the applicant for the Development Permit in that case first complies with 44 CFR Section 65.12.

#### **Sec. 5-1044. Variances.**

##### **A. General provisions.**

1. The City Council of the City of Wagoner may grant variances for uses which do not satisfy the requirements of the Oklahoma Floodplain Management Act or this Chapter, if the applicant for the variance presents adequate proof that (i) compliance with this Chapter will result in an arbitrary and unreasonable taking of property without sufficient benefit or advantage to the people and (ii) satisfies the pertinent provisions of this Section D. However, no variance shall be granted where the effect of the variance will be to permit the continuance of a condition which unreasonably creates flooding hazards.
2. Any variance so granted shall not be construed as to relieve any person who receives it from any liability imposed by the Oklahoma Floodplain Management Act or by other laws of the state.
3. In no case shall variances be effective for a period longer than twenty (20) years.
4. Any person seeking a variance shall file a petition with the City Council, accompanied by a filing fee as provided in Section 5-1061 of this *Code*.
5. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Sec. 5-1043(2) and provisions of Sec. 5-1044 of this *Code* have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
6. Any person seeking a variance to build a structure below the base flood elevation will be issued a notice signed by the Chairman of the City Council which states that (i) the cost of flood insurance will be commensurate with the increased risk resulting from permitting the structure to be built lower than the base flood elevation, and (ii) such construction below the base flood level increases risks to life and property.
7. At such time as the City Council deems the petition ready for notification to the public, the City Council shall schedule a hearing and direct the applicant to publish notice thereof in a newspaper of general circulation in Wagoner County at least thirty (30) days prior to the hearing.
8. The City Council shall conduct the hearing and make determinations in accordance with the applicable provisions of this Section. The City Council shall exercise wide discretion in weighing the equities involved and the advantages and disadvantages to the applicant and to the public at large when determining whether the variance shall be granted.
9. Variances shall only be issued upon:
  - a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, regulations or ordinances; and
  - d. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
10. Upon consideration of the factors stated in this Section and the intent of this Chapter, the City Council may attach such conditions to the granting of a variance as it deems necessary to further the purposes and objectives stated in Sec. 5-1003 of this *Code*.



11. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance; and a copy of any variance issued by the Floodplain Board shall be sent by the Floodplain Administrator to the OWRB and FEMA within fifteen (15) days after issuance of the variance.

**B. Special provisions.**

1. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Chapter.

2. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

3. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

4. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- a. The criteria of Sec. 5-1044(A)(5); Sec. 5-1044(A)(9); Sec. 1044(B)(2); and Sec. 1044(B)(3) of this *Code* are met, and
- b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

## Article E

### PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 5-1051.	General standards. . . . .	5.19
Sec. 5-1052.	Specific standards. . . . .	5.20
Sec. 5-1053.	Standards for Subdivisions. . . . .	5.21
Sec. 5-1054.	Floodways. . . . .	5.21
Sec. 5-1055.	Severability. . . . .	5.21

**Sec. 5-1051. General standards.** In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**Sec. 5-1052. Specific standards.** In all areas of special flood hazards the following provisions are required:

1. Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated at least one (1) foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection is satisfied.
2. Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall have the lowest floor (including basement) elevated at least one (1) foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection is satisfied.
3. Enclosures - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
  - b. The bottom of all openings shall be no higher than one foot above grade; and
  - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. Manufactured Homes - Require that all manufactured homes to be placed anywhere within the community in Flood Zones A and/or AE on the Wagoner FIRM shall be installed using methods and practices that minimize flood damage and have the bottom of the I-beam elevated at least one (1) foot above the base flood elevation. For the purposes of this requirement, manufactured homes must be elevated and anchored to a permanent foundation to resist flotation, collapse, or lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. The home shall be installed by a licensed installer according to Oklahoma state law and compliance herewith shall be certified in writing to the Floodplain Administrator by said installer prior to habitation of the manufactured home.
5. Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A and AE on the Wagoner County FIRM either:
  - a. Be on the site for fewer than 180 consecutive days,
  - b. Be fully licensed and ready for highway use, or
  - c. Meet the permit requirements of Sec. 1043 of this *Code*, and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
6. Accessory Structure – Accessory structures to be placed on sites within Zones A and AE on the Wagoner County FIRM shall comply with the following:
  - a. The structure shall be unfinished on the interior;

- b. The structure shall be used only for parking and limited storage;
- c. The structure shall not be used for human habitation. Prohibited activities or uses include but are not limited to working, sleeping, living, cooking, or restroom use;
- d. Service facilities such as electrical and heating equipment must be elevated to or above the BFE;
- e. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- f. The structure shall be designed to have low flood damage potential and constructed with flood resistance materials;
- g. The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement;
- h. Floodway requirements must be met in the construction of the structure;
- i. Openings to relieve hydrostatic pressure during a flood shall be provided below the BFE; and
- j. The structure shall be located so as not to cause damage to adjacent and nearby structures.

**Sec. 5-1053. Standards for Subdivisions.**

- 1. The applicant for a Development Permit for any subdivision located in Zones A and AE which is 51 or more lots or greater than 5 acres shall generate the base flood elevation data for that subdivision.
- 2. All subdivisions including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- 3. All subdivisions including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

**Sec. 5-1054. Floodways.** The following provisions shall apply to floodways:

- 1. Encroachments, including but not limited to fill, new construction, substantial improvements and other development are prohibited within the adopted floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the City of Wagoner during the occurrence of the base flood discharge.
- 2. If Sec. 5-104(1) of this *Code* is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V.
- 3. The City of Wagoner may permit encroachments within the adopted floodway that would result in an increase in base flood elevations, provided that the applicant for the Development Permit complies with all of 44 CFR Section 65.12.

**Sec. 5-1055. Severability.** If any section, clause, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Chapter.

## Article F

### FLOODPLAIN MANAGEMENT FEE SCHEDULE

Sec. 5-1061. Fees established . . . . . 5.21

**Sec. 5-1061. Fees established** The City Council shall from time to time establish the fees charged for floodplain management services.

(Amended: Ordinance No. 943 1/7/2019)

## Article G

### PENALTIES FOR NONCOMPLIANCE

Sec. 5-1071. Penalty for noncompliance. . . . .	5.22
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**Sec. 5-1071. Penalty for noncompliance.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. A structure or other development without the elevation certificate or other certifications required in this Chapter is presumed to be in violation until such time as that documentation is provided. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined as provided in Title 18 of this *Code* for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City Council of the City of Wagoner or its City Attorney from taking such other lawful action as is necessary to prevent or remedy any violation.

## Chapter 11

(RENUMBERED as Title 17, Chapter 2 by Ordinance No. 958 6/6/2022)

## Chapter 12

### PROPERTY MAINTENANCE CODE

Sec. 5-1201. Adoption of Property Maintenance Code. . . . .	5.22
Sec. 5-1202. Additions and changes to Property Maintenance Code. . . . .	5.22

**Sec. 5-1201. Adoption of Property Maintenance Code.** That certain document, at least one (1) copy of which is on file in the office of the City Clerk of the City of Wagoner, being marked and designated as *International Property Maintenance Code, 2015 Edition*, as published by the International Code Council, Inc. be and is hereby adopted as the *Property Maintenance Code* of the City of Wagoner in the State of Oklahoma; for regulating and governing the condition and maintenance of all property, buildings and structures by providing the standards for supplied utilities and facilities and other things and conditions essential to ensure the structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and the collection of fees therefore; and each and all of the regulations, provisions, penalties, additions, and terms of the said *Property Maintenance Code* on file in the office of the City Clerk of the City of Wagoner are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance with the additions, insertions, deletions and changes, if any, prescribed in Section 12-102 of this Code.

New: Ordinance No. 947 5/4/2020)

**Sec. 5-1202. Additions and changes to Property Maintenance Code.** The following sections are hereby revised as follows:

1. Section 101.1. Insert: “City of Wagoner, Oklahoma”;
2. Section 103.5. “City of Wagoner Master Fee Schedule”;
3. Section 111. Delete section;

4. Section 112. Delete section;
5. Section 112.4. Insert: “not to exceed \$499.00.”
6. Section 302.4. Insert: “twelve (12) inches”;
7. Section 304.14. Insert: “January 1 and December 31”;
8. Section 602.3. Insert: “September 1 and May 31”;
9. Section 602.4. Insert: “September 1 and May 31”;

New: Ordinance No. 947 5/4/2020)

## Chaper 13

### SWIMMING POOL AND SPA CODE

Sec. 5-1301.	Adoption of Swimming Pool and Spa Code Code. . . . .	5.23
Sec. 5-1302.	Additions and changes to Swimming Pool and Spa Code. . . . .	5.23

**Sec. 5-1301. Adoption of Swimming Pool and Spa Code Code.** That a certain document, at least one (1) copy of which is on file on the office of the City Clerk of the City of Wagoner being marked and designated as *International Swimming Pool and Spa Code*, 2015 Edition, as published by the International Code Council, Inc. be and is hereby adopted as the Swimming Pool and Spa Code of the City of Wagoner in the State of Oklahoma; for regulating and governing the design, construction, alterations, movement, renovation, replacement, repair and maintenance of swimming pools, spas, hot tubs, aquatic facilities and related equipment as herein provided; providing for the issuance for permits, and the collection of fee therefore; and each and all of the regulations, provisions, penalties, additions, and terms of the said textitSwimming Pool and Spa Code on file in the office of the City Clerk of the City of Wagoner are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance with the additions, insertions, deletions and changes, if any, prescribed in Section 13-102 of this Code.

(New: Ordinance No. 948 5/4/2020)

**Sec. 5-1302. Additions and changes to Swimming Pool and Spa Code.** The following sections are hereby revised as follows:

1. Section 101.1. Insert: “City of Wagoner, Oklahoma”;
2. Section 105.6.2. Insert: “City of Wagoner Master Fee Schedule”;
3. Section 105.6.3 Replace with “There shall be no refund of permit fees.”;
4. Section 107.4. Delete;
5. Section 107.5. Delete;

(New: Ordinance No. 948 5/4/2020)

## Chaper 14

### CODE OFFICIAL

Sec. 5-1401.	Code official. . . . .	5.24
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**Sec. 5-1401. Code official.** The code official of this City shall be appointed by the Mayor, with approval of the Council, and shall have the powers and duties prescribed in this Title, provided that his powers and duties may be exercised by his authorized representatives under his supervision and control.  
(Renumbered: Ordinance No. 947 12/5/2016); (Renumbered: Ordinance No. 948 5/4/2020)

## Chapter 15

### STOP WORK ORDERS, PERMITS, LICENSES AND BONDS

Sec. 5-1501.	Stop work orders. . . . .	5.24
Sec. 5-1502.	Permits, licenses and bonds required, amount. . . . .	5.24
Sec. 5-1503.	Revocation of permits, licenses and bonds. . . . .	5.24

**Sec. 5-1501. Stop work orders.** Upon notice from the code official that work is being done contrary to the provisions of this Title or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. No person shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition.  
(Renumbered: Ordinance No. 947 12/5/2016); (Renumbered: Ordinance No. 948 5/4/2020)

**Sec. 5-1502. Permits, licenses and bonds required, amount.** Whenever any permit, license or bond is required in accordance with the provisions of this Title, the license, permit or bond may be issued upon the payment by the applicant of an amount which shall be set by motion or resolution of the City Council. A current copy of the schedule for the amount for such permits, licenses and bonds shall be kept in the office of the City Clerk, Oklahoma.

(Renumbered: Ordinance No. 947 12/5/2016); (Renumbered: Ordinance No. 948 5/4/2020)

**Sec. 5-1503. Revocation of permits, licenses and bonds.** Upon violation of any provision of this Title, the City Council, upon at least ten (10) days notice and adequate opportunity for a public hearing, may revoke any permit, license or bond issued or required by this Title.

(Renumbered: Ordinance No. 947 12/5/2016); (Renumbered: Ordinance No. 948 5/4/2020)

## Chapter 16

### PENALTY

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Sec. 5-1602.	Relief in courts. . . . .	5.25

**Sec. 5-1601. Penalty** Any person, firm, corporation or association who shall engage in any business, trade or vocation for which a license, permit, certificate or registration is required by this Title, without having a valid license, permit, certificate or registration as required in this Title, or who shall fail to do anything required by this Title or by any code adopted by this Title, or who shall otherwise violate any provision of the chapters in this Title or of any code adopted by this Title, or who shall violate any lawful regulation or order made by any of the officers provided for in this Title, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in this Code.

(Renumbered: Ordinance No. 947 12/5/2016); (Renumbered: Ordinance No. 948 5/4/2020)

**Sec. 5-1602. Relief in courts.** No penalty imposed by and pursuant to this Title shall interfere with the right of the City also to apply to the proper courts of the State for a mandamus, an injunction or other appropriate action against such person, firm, corporation, or association.

(Renumbered: Ordinance No. 947 12/5/2016); (Renumbered: Ordinance No. 948 5/4/2020)

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# Title 6

## COURT

### Chaper 1

#### COURT

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**Sec. 6-101. Organization of municipal court.** This chapter shall govern the organization and operation of the municipal criminal court of the City of Wagoner as put into operation by resolution duly passed on September 25, 1979, and filed in accordance with laws as authorized by Sections 27-101 and 27-102 of Title 11 of the Oklahoma Statutes. To the extent of conflict between any provisions of this chapter and the provisions or any ordinance of the City, the provisions of this chapter shall control.

**Sec. 6-102. Definitions** As used in this chapter, unless the context requires a different meaning, the following words shall have the meanings ascribed to them in this section:

1. "Court" means the municipal criminal court of the City of Wagoner;
2. "Judge" means the judge of the municipal criminal court, including any acting judge or alternate judge thereof as provided for by the statutes of this state and this chapter;
3. "Clerk" means the clerk of this City, including any deputy or member of the office staff of the Clerk while performing duties of the Clerk's office;
4. "Marshal" means the peace officer in charge of the police force of the City; and
5. "This judicial district" means the district court judicial district of the State of Oklahoma wherein this city is situated.

**Sec. 6-103. Jurisdiction of court.** The court shall exercise original jurisdiction to hear and determine all prosecutions wherein a violation of any ordinance of this City is charged, including any such prosecutions transferred to the court in accordance with applicable law.

**Sec. 6-104. Judge; qualifications.** There shall be one judge of the court. The judge shall be an attorney licensed to practice law in the state who resides in the county in which the City is located or in an adjacent county, or who maintains a permanent office in this City. A judge who is a licensed attorney may engage in the practice of law in other courts, but he shall not accept employment inconsistent with his duties as judge, or in cases arising out of facts which give rise to or are connected with cases within the jurisdiction of the court, or in cases pending therein or which might become the subject of proceedings therein.

**Sec. 6-105. Term of judge.** The official term of the judge shall be two (2) years expiring on the 1st day of February in each odd-numbered year. Each judge, unless sooner removed for proper cause, shall serve until his successor is appointed and qualified.

**Sec. 6-106. Alternate judge.** There may be appointed for each judge of the court an alternate possessed of the same qualifications as the judge. His appointment shall be for the same term and made in the same manner as the judge. He shall sit as acting judge of the court in any case if the judge is absent from the court, unable to act as judge, or disqualified from acting as judge in the case.

**Sec. 6-107. Acting judge.** If at any time there is no judge duly appointed and qualified, available to sit as judge, the Mayor shall appoint some person, possessing the qualifications required by this chapter for the judge, who shall preside as acting judge over the court in the disposition of pending matters until such time as a judge shall be available.

**Sec. 6-108. Appointment of judge and alternate judge.** Judges shall be appointed by the Mayor with the consent of the Council. A proposed appointment shall be submitted in writing to the Council at a regularly scheduled meeting immediately preceding the regularly scheduled meeting upon which the appointment is to be considered. The proposed appointment shall be acted upon at the next regularly scheduled meeting. The Council may decide upon the proposed appointment by a majority vote of a quorum present and acting. Failure of decision upon a proposed appointment shall not prevent action thereon at a later scheduled meeting of the Council unless the Mayor, in writing, withdraws the proposed appointment.

**Sec. 6-109. Salary and payments to judge.** A judge, other than an acting judge, shall receive a salary as set by the Council from time to time, to be paid in the manner as set by the Council. An acting judge shall be paid a sum as set by the Council; however, their salary for any month shall not exceed the salary of the judge in whose stead the acting judge sits.

**Sec. 6-110. Removal of judge.** Judges shall be subject to removal from office by the Council for the causes prescribed by the constitution and laws of this state for the removal of public officers. Proceedings for removal shall be instituted by the filing of a verified written petition setting forth facts sufficient to constitute one or more legal grounds for removal. Petitions may be signed and filed by:

1. The Mayor; or
2. Twenty-five (25) or more qualified electors of the City. Verification of the number or qualifications of electors shall be executed by one or more of the petitioners.

The Council shall set a date for hearing the matter and shall cause notice thereof, together with a copy of the petition, to be served personally upon the judge at least ten (10) days before the hearing. At the hearing, the judge shall be entitled to:

1. Representation by counsel;
2. To present testimony and to cross-examine the witnesses against him; and
3. Have all evidence against him presented in open hearing.

So far as they can be applicable, the provisions of the Oklahoma Administrative Procedures Act governing individual proceedings (Sections 309 to 317 of Title 75 of the Oklahoma Statutes, as amended) shall govern removal proceedings hereunder. Judgment of removal shall be entered only upon individual votes, by a majority of all members of the Council in favor of such removal.

**Sec. 6-111. Vacancy in office of judge.** A vacancy in the office of judge shall occur if the incumbent:

1. Dies;
2. Resigns;
3. Ceases to possess the qualifications for the office; or
4. Is removed, and the removal proceedings have been affirmed finally in judicial proceedings or are no longer subject to judicial review.

Upon the occurrence of a vacancy in the office of judge, the Mayor shall appoint a successor to complete the unexpired term in the same manner as an original appointment.

**Sec. 6-112. Disqualification of judge.** In prosecutions before the court no change in venue shall be allowed; but the judge before whom the case is pending may certify his disqualification or he may be disqualified from sitting under the terms, conditions and procedures provided by law for courts of record. If a judge is disqualified, the matter shall be heard by an alternate or acting judge appointed as provided in this chapter.

**Sec. 6-113. Marshal.** All writs or processes of the court shall be directed, in his official title, to the chief of police, who shall be the principal officer of the court.

**Sec. 6-114. Clerk of the court; duties.** The Clerk, or a deputy designated by the Clerk, shall be *ex officio* the clerk of the court. The Clerk shall:

1. Assist the judge in recording the proceedings of the court and in preparing writs, processes and other papers;
2. Administer oaths required in proceedings before the court;
3. Enter all pleadings, processes, and proceedings in the dockets of the court;
4. Perform such other clerical duties relating to the proceedings of the court as the judge shall direct;
5. Receive and receipt for forfeitures, fines, deposits, and sums of money payable to the court; and
6. Pay to the Treasurer of the City all money so received by the Clerk, except such special deposits or fees as shall be received to be disbursed by the clerk for special purposes.

All money paid to the Treasurer shall be placed in the general fund of the City, or in such other funds as the governing body may direct, and it shall be used in the operation of the municipal government in accordance with budgetary arrangements governing the fund in which it is placed.

**Sec. 6-115. Prosecuting attorney; duties.** The attorney for this municipality, or his duly designated assistant, may be prosecuting officer of the court. He may also prosecute all alleged violations of the ordinances of the City. He shall be authorized, in his discretion, to prosecute and resist appeal, proceedings in error and review from this court to any other court of the state, and to represent the City in all proceedings arising out of matters in this court.

**Sec. 6-116. Bond of court clerk.** The court clerk of the court shall give bond, in the form provided by law, in a sum to be determined by the Council. When executed, the bond shall be submitted to the governing body for approval. When approved, it shall be filed with the Clerk and retained in the City archives.

**Sec. 6-117. Rules of court.** The judge may prescribe rules, consistent with the laws of the State and with the ordinances of the City, for proper conduct of the business of the court.

**Sec. 6-118. Enforcement of rules.** Obedience to the orders, rules and judgments made by the judge or by the court may be enforced by the judge, who may fine or imprison for contempt committed as to him while holding court, or committed against process issued by him, in the same manner and to the same extent as the district courts of this state.

**Sec. 6-119. Written complaints to prosecute ordinance violations.** All prosecutions for violations of ordinances of this city shall be styled "The City of Wagoner, Oklahoma vs. (naming defendant or defendants)". Except as provided hereinafter, prosecution shall be initiated by the filing of a written complaint, subscribed and verified by the person making complaint, and setting forth concisely the offense charged.

**Sec. 6-120. Traffic ordinance violations; procedures for issuing citation; custody, arrest.**

**A.** If a police officer observes facts which he believes constitute a violation of the traffic ordinances of the City, in lieu of arresting such a person, he may release the person on personal recognizance in accordance with Section 6-121 of this code, or take his name, address, operator's license number, and registered license number of the motor vehicle involved and any other pertinent and necessary information and may issue him in writing in form prescribed by the mayor or his duly designated delegate, a traffic citation embracing the above information, and also stating the traffic violation alleged to have occurred, and notifying him to answer to the charge against him at a time, not later than the date specified in the citation. The officer, upon receiving the written promise of the alleged violator, endorsed on the citation to answer as specified, may then release the person from custody. If the person to whom a citation is issued fails to answer as prescribed in the citation, complaint shall be filed and the case shall be prosecuted as otherwise provided in this chapter.

**B.** If the alleged traffic violation is committed by a nonresident or resident of this municipality, the police officer may:

- 1.** Release the person after obtaining sufficient information as set out in Subsection A of this section pending his appearance on a day certain in court;
- 2.** Take the person in custody and demand that bond for the offense charged be posted according to the provisions of this chapter; or
- 3.** Take the person into custody under arrest. The arrested person either shall be taken immediately before the judge for further proceedings according to law or shall have bail fixed for his release in accordance with the provisions of this chapter Upon providing bail as fixed, and upon giving his written promise to appear upon a day certain, as provided in Subsection A of this section, the person shall be released from custody.

**C.** If the alleged offense be a violation of an ordinance restricting or regulating the parking of vehicles, including any regulations issued under such an ordinance, and the operator be not present, the police officer shall place on the vehicle, at a place reasonably likely to come to the notice of the

operator, a citation conforming substantially to that prescribed in Subsection A or B of this section, with such variation as the circumstances require, the operator of this vehicle shall be under the same obligation to respond to the citation as if it had been issued to him personally under Subsections A or B of this section.

**Sec. 6-121. Traffic bail bond procedures.**

**A.** In addition to other provisions of law for posting bail, any person, whether a resident of this state or a nonresident, who is arrested by a law enforcement officer solely for a misdemeanor violation of a state traffic law or municipal traffic ordinance shall be released by the arresting officer upon personal recognizance if:

1. The arrested person has been issued a valid license to operate a motor vehicle by this state, another state jurisdiction within the United States, or any party jurisdiction of the Nonresident Violator Compact;
2. The arresting officer is satisfied as to the identity of the arrested person;
3. The arrested person signs a written promise to appear as provided for on the citation; and
4. The violation does not constitute:
  - a. A felony;
  - b. Negligent homicide;
  - c. Driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substances;
  - d. Eluding or attempting to elude a law enforcement officer;
  - e. Operating a motor vehicle without having been issued a valid driver's license, or while the license is under suspension, revocation, denial or cancellation;
  - f. An arrest based upon an outstanding warrant;
  - g. A traffic violation coupled with any offense stated in subparagraphs a through f of this paragraph;
  - h. An overweight violation, or the violation of a special permit exceeding the authorized permit weight; or
  - i. A violation relating to the transportation of hazardous material

**B.** If the arrested person is eligible for release on personal recognizance as provided for in Subsection A of this section, then the arresting officer shall:

1. Designate the traffic charge;
2. Record information from the arrested person's drivers license on the citation form, including the name, address, date of birth, personal description, type of driver's license, driver's license number, issuing state, and expiration date;
3. Record the motor vehicle make, model and tag information;
4. Record the arraignment date and time on the citation; and
5. Permit the arrested person to sign a written promise to appear as provided for in the citation.

The arresting officer shall then release the person upon personal recognizance based upon the signed promise to appear. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon a signed written promise to appear for arraignment is conditional and that failure to timely appear for arraignment shall result in the suspension of the arrested person's drivers license in this state, or in the nonresident's home state pursuant to the Nonresident Violator Compact.

**C.** Procedures for arraignment, continuances and scheduling, timely appearances, pleas of guilty or *nolo contendere*, posting bail, payment of fines and costs, issuance of arrest warrants, and requests

for suspension of driver's license, shall be required in state law, Sections 1115.1 through 1115.5 of Title 22 of the Oklahoma Statutes.

**D.** A defendant released upon personal recognizance may elect to enter a plea of guilty or *nolo contendere* to the violation charged at any time before he is required to appear for arraignment by indicating such plea on the copy of the citation furnished to him or on a legible copy thereof, together with the date of the plea and his signature. The defendant shall be responsible for assuring full payment of the fine and costs to the court clerk. The defendant shall not use currency for payment by mail. If the defendant has entered a plea of guilty or *nolo contendere* as provided for in this subsection, such plea shall be accepted by the court and the amount of the fine and costs shall be as prescribed by ordinance for the violation charged or as prescribed by the court.

**E.** If, pursuant to the provisions of Subsection D of this section, the defendant does not timely elect to enter a plea of guilty or *nolo contendere* and fails to timely appear for arraignment, the court may issue a warrant for the arrest of the defendant and the municipal or district court clerk, within one hundred twenty (120) calendar days from the date the citation was issued by the arresting officer, shall notify the State Department of Public Safety that:

1. The defendant was issued a traffic citation and released upon personal recognizance after signing a written promise to appear for arraignment as provided for in the citation;
2. The defendant has failed to appear for arraignment without good cause shown;
3. The defendant has not posted bail, paid a fine, or made any other arrangement with the court to satisfy the citation; and
4. The citation has not been satisfied as provided by law.

The court clerk shall request the State Department of Public Safety to either suspend the defendant's driver's license to operate a motor vehicle in this state, or notify the defendant's home state and request suspension of the defendant's driver's license in accordance with the provisions of the Nonresident Violator Compact. Such notice and request shall be on a form approved or furnished by the State Department of Public Safety. The court clerk shall not process the notification and request provided for in this subsection if, with respect to such charges:

1. The defendant was arraigned, posted bail, paid a fine, was jailed, or otherwise settled the case;
2. The defendant was not released upon personal recognizance upon a signed written promise to appear as provided for in this section or if released, was not permitted to remain on such personal recognizance for arraignment;
3. The violation relates to parking or standing, an overweight violation, an overweight permit, or the transportation of hazardous materials; or
4. A period of one hundred twenty (120) calendar days or more has elapsed from the date the citation was issued by the arresting officer.

**F.** The court clerk shall maintain a record of each request for driver's license suspension submitted to the State Department of Public Safety pursuant to the provisions of this section. When the court or court clerk receives appropriate bail or payment of the fine and costs, settles the citation, makes other arrangements with the defendant, or otherwise closes the case, the court clerk shall furnish proof thereof to such defendant, if the defendant personally appears, or shall mail such proof by first class mail, postage prepaid, to the defendant at the address noted on the citation or at such other address as is furnished by the defendant. Additionally, the court or court clerk shall notify the home jurisdiction of the defendant as listed on the citation, if such jurisdiction is a member of the Nonresident Violator Compact, and shall in all other cases, notify the State Department of Public Safety of the resolution of the case. The form of proof and the procedures for notification shall be approved by the State Department of Public Safety. Provided however, the court or court clerk's failure to furnish such proof or notice in the manner provided for in this subsection shall in no event

create any civil liability upon the court, the court clerk, the state or any political subdivision thereof, or any state department or agency or any employee thereof but duplicate proof shall be furnished to the person entitled thereto upon request.

**Sec. 6-122. Creation of traffic violations bureau.**

**A.** A traffic violations bureau is established as a division of the office of the clerk of the court, to be administered by the clerk, or by subordinates designated by him for that purpose. Persons who are cited for violation of one of the traffic regulatory ordinances of this municipality may elect to pay a fine in the traffic violations bureau according to the schedule of fines to be determined by the Council by motion or resolution.

**B.** The court may adopt rules to carry into effect this section. Payment of a fine under this section shall constitute a final determination of cause against the defendant. If a defendant who has elected to pay a fine under this section fails to do so, prosecution shall proceed under the provisions of this chapter.

**Sec. 6-123. Summons for arrest.**

**A.** Upon the filing of a complaint charging violation of any ordinance, the judge, unless he determines to issue a warrant of arrest, or unless the defendant previously has been issued a citation or has been arrested and has given bond for appearance, shall issue a summons, naming the person charged, specifying his address or place of residence, if known, stating the offense with which he is charged and giving him notice to answer the charge in the court on a certain day after the summons is served upon him, and including such other pertinent information as may be necessary.

**B.** The summons shall be served by delivering a copy to the defendant personally. If he fails to appear and to answer the summons within the prescribed period, a warrant shall be issued for his arrest, as provided by this chapter.

**Sec. 6-124. Form of arrest warrant.**

**A.** Except as otherwise provided in the ordinances of the City, upon the filing of a complaint approved by the endorsement of the attorney of this City or by the judge, there shall be issued a warrant of arrest, in substantially the form set forth in the Appendix to this chapter.

**B.** It is the duty of the Marshal, personally, or through a duly constituted member of the police force of this City, or through any other person lawfully authorized so to act, to execute a warrant as promptly as possible.

**Sec. 6-125. Procedures for bail or bond.** Upon arrest, or upon appearance without arrest in response to citation or summons, or at any time before trial, before or after arraignment, the defendant shall be eligible to be released upon giving bail for his appearance in an amount and upon conditions fixed by this chapter or the judge, who shall prescribe appropriate rules of court for the receipt of bail. In case of arrests made at night or under other conditions of emergency or when the judge is not available, the rules shall authorize the chief of police, or his designated representative, to accept a temporary cash bond of not less than One Hundred Dollars (\$100.00) but not more than the maximum monetary penalty provided by ordinance for the offense charged.

**Sec. 6-126. Bond forfeiture, district court.**

**A.** If, without sufficient excuse, a defendant fails to appear according to the terms or conditions of his bond, either for hearing, arraignment, trial or judgment, or upon any other occasion when his presence in court or before the magistrate may be lawfully required, the judge may direct that fact to be entered upon the court minutes, thereby declaring the bond to be forfeited. Without advancing court costs, the judge may then cause the forfeiture to be certified to the district court of the County, where it shall be entered upon the judgment docket and shall have the full force and effect of a district court judgment. At such time as the forfeiture is entered upon the district court judgment docket, the district court clerk shall proceed in accordance with the provisions of Sections 1330, 1332, 1333 and 1335 of Title 59 of the Oklahoma Statutes and surety shall have all remedies available under the provisions of Sections 1108 of Title 22 and Sections 1301 through 1340 of Title 59 of the Oklahoma Statutes. Court costs shall be collectable from the proceeds of the bond.

**B.** A prosecution in a court provided for herein shall be a bar to prosecution in another court for the same or a lesser included offense.

**Sec. 6-127. Arraignment and pleadings by defendant.** Upon making his appearance before the court, the defendant shall be arraigned. The judge or the attorney of the City, shall read the complaint to the defendant, inform him of his legal rights, including the right of trial by jury, if available, and of the consequences of conviction, and ask him whether he pleads guilty or not guilty. If the defendant pleads guilty, the court may proceed to judgment and sentence or may continue the matter for subsequent disposition. If the plea is not guilty, and the case is not for jury trial, the court may proceed to try the case, or may set it for hearing at a later date.

**Sec. 6-128. Trials and judgments.**

**A.** Before trial commences, either party, upon good cause shown, may obtain reasonable postponement thereof.

**B.** The defendant must be present in person at the trial or be represented by counsel if permitted by the judge.

**C.** In all trials, as to matters not covered in this chapter, or by the statutes relating to municipal criminal courts, or by rules duly promulgated by the Supreme Court of Oklahoma, the procedure applicable in trials of misdemeanors in the district courts shall apply to the extent that they can be made effective.

**D.** If the defendant pleads guilty or is convicted after the trial, the court must render judgment thereon, fixing the penalty within the limits prescribed by the applicable ordinance and imposing sentence accordingly.

**E.** At the close of trial, judgment must be rendered immediately by the judge who shall cause it to be entered in his docket.

**F.** If judgment is of acquittal, and the defendant is not to be detained for any other legal cause, he must be discharged at once.

**G.** A judgment that the defendant pay a fine may also direct that he be imprisoned until the fine is satisfied at the rate of one day imprisonment for each Five Dollars (\$5.00) of fine or as set out in Subsection H hereof for defendants who are without means to make such payment.

**H.** If the defendant is without means to pay the fine or costs, the municipal judge may direct the total amount due to be entered upon the court minutes and to be certified to the district court of the County where it shall be entered upon the district court judgment docket and shall have the full force and effect of a district court judgment. Thereupon the same remedies shall be available for the enforcement of the judgment as are available to any other judgment creditor.

**Sec. 6-129. Trial by jury and waiver.**

**A.** In all prosecutions for violations of ordinances punishable by fine of more than Five Hundred Dollars (\$500.00), or by imprisonment, or by both such fine and imprisonment, trial shall be by jury, unless waived by the defendant. If trial by jury is waived, trial shall be to the court.

**B.** At arraignment, the defendant shall be asked whether he demands or waives trial by jury. His election shall be recorded in the minutes of the arraignment and entered on the docket of the court respecting proceedings in the case.

**C.** An election waiving jury trial, made at arraignment, may be changed by the defendant at any time prior to the day for which trial by the court is set; an election demanding jury trial may be changed at any time prior to the commencement of proceedings to impanel the jury for trial, but if that change occurs after the case has been set for jury trial, it may not thereafter be rechanged so as again to demand trial by jury.



**Sec. 6-130. Juror and jury trial procedures.**

**A.** Whenever a calendar has been made up for the trial of cases by jury, the judge shall request, in writing, the presiding judge of the district court for this judicial district to cause the names of a stated number of jurors, deemed sufficient to dispose of the cases on the calendar, to be drawn from the jury wheel in accordance with the governing statutes of the state, and to be certified by the clerk of the district court to the judge of the municipal court. The request shall be made in time for the list to be certified and the jurors to be summoned legally before the trial of the calendar begins. If it is anticipated that the completion of the calendar will required more than two (2) weeks, the request for jurors shall specify the number required for each two-week period, as provided by law for the drawing of jurors for the district court. Additional drawing of other names also may be requested by the judge, when necessary, in accordance with the law for such additional drawings in the district court. If, in the future, provisions of the law respecting the drawing of jury lists for the district court are changed, the judge shall take such steps, in requesting jury lists for the court, as are necessary with the state law.

**B.** Upon receipt of the jury list, the clerk of the court shall cause a summons substantially in the form set forth in the Appendix to this chapter.

**C.** Service shall be made, as the judge may prescribe by rule or direct by order, either in person upon the juror by the marshal of the court or by any member of the police force of this city, or by the clerk of the court, through certified mail, directed to the juror at his address as given in the jury list with request for a personally signed return receipt. In any proceeding wherein service of summons by mail is in issue, evidence of the due mailing of the summons by the clerk or a member of his staff and the presentation of an official postal return receipt purportedly signed by the addressee shall be prima facie evidence that the summons was duly received by the addressee and therefore, that he was properly served therewith.

**D.** A jury in the court shall consist of six (6) jurors, good and lawful men or women, citizens of the County of Wagoner possessing the qualifications of jurors in district court.

**E.** After the jurors are sworn, they must sit together and hear the proofs and oral arguments of the parties, which must be delivered in public and in the presence of the defendant.

**F.** A verdict of the jury may be rendered by the vote of five (5) jurors.

**G.** In all actions tried before a jury, the judge shall determine all questions of law, including questions as to the introduction of evidence, arising during the trial. He also shall instruct the jury as to the law.

**H.** The verdict of the jury, in all cases, must be general. When the jury has arrived at its verdict, it must deliver the verdict publicly to the court. The judge must enter the verdict in the docket or cause it to be so entered.

**I.** The jury must not be discharged after the case is submitted to it until a verdict is rendered, unless the judge, for good cause, discharges it sooner, in which event the court may proceed again to trial, and so on, until a verdict is rendered.

**Sec. 6-131. Witness fees.** Witnesses in any proceedings in the court other than the police officers or peace officers shall be entitled to a fee as set by the City per each day of attendance, plus mileage for each mile actually and necessarily traveled in going to and returning from the place of attendance if their residence is outside the limits of the municipality. However, no witness shall receive fees or mileage in more than one case for the same period of time or the same travel. A defendant seeking to subpoena witnesses must deposit with the clerk a sum sufficient to cover fees and mileage for one day of attendance for each witness to be summoned, but such deposit shall not be required from an indigent defendant who files an affidavit setting out:

1. The name of not more than three (3) witnesses;
2. That the defendant, because of his poverty, is unable to provide the fees and mileage allowed by law;

3. That the testimony of the witnesses is material; and
4. That their attendance at the trial is necessary for his proper defense.

The fees of such witnesses shall be paid by the City.

**Sec. 6-132. Compensation of jurors.** Jurors shall receive for their services a *per diem* fee as set by the City. The claims for such compensation shall show the location of the juror's residence and the route and miles traveled, and must be verified as other claims against the City are verified. Jurors shall be paid out of the general funds of the City.

**Sec. 6-133. Sentencing.**

**A.** The judge may suspend, modify, defer or reduce a sentence in accordance with Sections 27-123 and 27-124 of Title 11 of the Oklahoma Statutes.

**B.** A judge who is licensed to practice law in this state in imposing judgment and sentence, at his discretion, is empowered to modify, reduce, or suspend or defer the imposition of such sentence or any part thereof and to authorize probation for a period not to exceed six (6) months from the date of sentence, under such terms or conditions as the judge may specify. Procedures relating to suspension of the judgment or costs or both shall be as provided in Section 27-123 of Title 11 of the Oklahoma Statutes. Upon completion of the probation term, the defendant shall be discharged without a court judgment of guilt, and the verdict, judgment of guilty or pleas of guilty shall be expunged from the record and the charge dismissed with prejudice to any further action. Upon a finding of the court that the conditions of probation have been violated, the judge may enter a judgment of guilty. The judge may continue or delay imposing a judgment and sentence for a period of time not to exceed six (6) months from the date of sentence. At the expiration of such period of time the judge may allow the municipal attorney to amend the charge to a lesser offense. If a deferred sentence is imposed, an administrative fee of not to exceed Two Hundred Dollars (\$200.00) may be imposed as costs in the case.

**Sec. 6-134. Imprisonment.**

**A.** If, after conviction, judgment of imprisonment is entered, a copy thereof, certified by the clerk, shall be delivered to the Marshal, the sheriff of the County or other appropriate police officer. Such copy shall be sufficient warrant for execution of the sentence.

**B.** All prisoners confined to jail on conviction or on plea of guilty, upon request of the prisoner and if approved by the City, may be allowed to work on the public streets, avenues, alleys, parks, buildings, or other public premises or property. For each day of such work, the prisoner shall be credited for serving two (2) days of imprisonment under his sentence.

**C.** The Marshal, subject to the direction of the Mayor, shall direct where the work shall be performed. The head of the department in charge of the place where the work is to be performed, himself, or some person designated by him, shall oversee the work. If a guard is necessary, the Marshal shall make provision therefor.

**Sec. 6-135. Fines and costs.** If judgment of conviction is entered, the clerk of the court shall tax the costs to the defendant, which shall be the maximum allowed by state law, plus the fees and mileage of jurors and witnesses.

**Sec. 6-136. Failure to appear, court costs, penalty.** Any person who files a complaint in the municipal court against another person or persons and fails to appear to prosecute or testify on the complaint so filed, or moves to dismiss the same without court approval, is liable for, and shall be assessed and pay all court costs incurred in the filing of the complaint. Any defendant failing to appear as required shall constitute a separate offense, punishable as provided in this Code.

**Sec. 6-137. Penalty assessments.**

**A.** Any person convicted of an offense punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration, excluding parking and standing violations, or any person forfeiting bond when charged with such an offense, shall be ordered by the court to pay a separate penalty assessment as required by law, which shall be in addition to and not in substitution for any and all fines and

penalties otherwise provided for by law for such offense. The court shall provide for separate bail for the penalty assessment. A defendant admitted to bail on an undertaking by a surety may include the amount of the penalty assessment in the undertaking.

**B.** Upon conviction or bond forfeiture, the court shall collect the penalty assessment and deposit it in an account created for that purpose. As an administrative fee for handling funds collected as a penalty assessment, the court is authorized to retain a percent of such monies as authorized by law and may also retain all interest accrued thereon prior to the due date for deposits as provided in this subsection. The remainder of such monies shall be forwarded quarterly by the court clerk to the state treasury. Deposits shall be due July 15 for the preceding quarter ending June 30, October 15 for the preceding quarter ending September 30, January 15 for the preceding quarter ending December 31, and April 15 for the preceding quarter ending March 31.

**C.** As used in this section, “convicted” means any final adjudication of guilt, whether pursuant to a plea of guilty or *nolo contendere* or otherwise, and any deferred or suspended sentence or judgment.

## Appendix to Chapter 1

### Form of Warrant

The City of Wagoner, Oklahoma to the Marshal of Wagoner, Oklahoma.

Complaint upon oath having this day been made by (naming complainant) that the offense of (naming the offense in particular but general terms) has been committed and accusing (name of defendant) thereof, you are commanded therefor forthwith to arrest the above named defendant and bring \_\_\_\_\_ before me, at the municipal courtroom.

Witness my hand this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Judge of the Municipal Court  
Wagoner, Oklahoma

### Form of Juror Summons

TO \_\_\_\_\_, GREETINGS: you hereby are summoned to appear in the Municipal Court for the City of Wagoner, Oklahoma, to be held at \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, at the hour of \_\_\_\_\_ o'clock \_\_.M., to serve as a juror in said court, and to continue in such service until discharged by the court.

\_\_\_\_\_  
Clerk of the Municipal Court  
Wagoner, Oklahoma

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# Title 7

## FINANCE AND TAXATION

### Chapter 1

#### FINANCE AND BUDGET ADMINISTRATION

Sec. 7-101.	Depositories designated; funds to be deposited. . . . .	7.1
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**Sec. 7-101. Depositories designated; funds to be deposited.** Funds of the City shall be deposited as required by law. The City Treasurer shall deposit daily all public funds received by him into designated banks and savings and loan associations.

**Sec. 7-102. Funds secured by Unit Collateral System.** The deposits of the City shall be secured by the Unit Collateral System provided by the Oklahoma Statutes.

**Sec. 7-103. Contractual services defined for purchasing.** “Contractual services,” for the purpose of this chapter, shall mean services performed for the City by persons not in the employment of the City, and may include the use of equipment or the furnishing of commodities in connection with the services under express or implied contract. Contractual services shall include travel; freight; express; parcel post; postage; telephone; telegraph; utilities; rents; printing out; binding; repairs; alterations and maintenance of buildings, equipment, streets and bridges, and other physical facilities of the City, and other services performed for the City by persons not in the employment of the City.

**Sec. 7-104. Purchases, how made.** All purchases of supplies, materials, equipment and contractual services for the offices, departments and agencies of the City, shall be made by the city purchasing officer, or by other personnel pursuant to authorizations granted by the city purchasing officer, and subject to his supervision and control.

**Sec. 7-105. Competitive bidding.** Before the City makes any purchases of, or contract for, supplies, materials, equipment or contractual services, except as otherwise provided below, the city purchasing officer shall submit to at least three (3) persons, firms or corporations dealing in and able to supply the same, or to a smaller number if there are not three (3) dealing in and able to supply the same, a request for quotation, or invitation to bid, and specification, to give them opportunity to bid; or publish notice of the proposed purchase in a newspaper of general circulation within the City. The city purchasing officer shall favor a person, firm or corporation in the city when this can be done without additional cost to the City; but the City purchasing officer shall submit requests for quotation to those outside the City when this may be necessary to secure bids or to create competitive conditions, or when the city purchasing officer thinks that by so doing the City purchasing officer can make a saving for the City; and shall purchase from them when the city purchasing officer can make a saving for the City. All bids shall be sealed and shall be opened in public at a designated time and place. The city purchasing officer may repeatedly reject all bids, and again may submit to the same or other persons, firms or corporations the request for quotation, or invitation to bid, or again publish notice of the proposed purchase. The city purchasing officer may purchase from the bidder whose bid is most advantageous to the City, considering price, quality, date of delivery and so on, and in case of a tie, may purchase from

one of those tying, or may divide the purchase among those tying, always accepting the bid or bids most advantageous to the City.

**Sec. 7-106. When competitive bidding is not required.** The following may be purchased without giving an opportunity for competitive bidding:

1. Supplies, materials, equipment or contractual services whose cost does not exceed Three Thousand Five Hundred Dollars (\$3,500.00) in a single transaction;
2. Supplies, materials, equipment or contractual services which can be furnished only by a single dealer, or which have a uniform price wherever bought;
3. Supplies, materials, equipment or contractual services purchases from another unit of government at a price deemed below that obtainable from private dealers, including government surplus;
4. Contractual services, including but not limited to natural gas, electricity, telephone service, purchases from a public utility at a price or rate determined by the State Corporation Commission or other governmental authority;
5. Supplies, materials, equipment or contractual services when purchased at a price not exceeding a price set therefor by the state purchasing agency or any other state agency hereafter authorize to regulate prices for things purchased by the state, whether such price is determined by a contract negotiated with a vendor or otherwise; and
6. Contractual services of a professional nature, such as engineering, architectural and medical services unless competitive bidding is required by applicable law or regulations.

**Sec. 7-107. Sales, surplus or obsolete property, competitive bidding.** No surplus or obsolete supplies, materials or equipment of any value may be sold until the Council shall have declared them obsolete or surplus. Before the City sells any surplus or obsolete supplies, materials or equipment of a value of more than Seven Thousand Five Hundred Dollars (\$7,500.00), except as otherwise provided below, the City shall advertise them for sale in a newspaper of general circulation in the City or give notice in such other manner as the City deems necessary to adequately to reach prospective buyers to give them opportunity to make necessary bids. All bids shall be sealed and shall be opened in public at a designated time and place, except when the sale is by auction. The City may repeatedly reject all bids and advertise or give notice again. The City shall sell such supplies, materials or equipment to the highest responsible bidder. In case of a tie, if necessary, the City shall cast lots to determine to whom to sell, or the City may divide the sale among two (2) or more tying, always selling to the highest responsible bidder or bidders.

**Sec. 7-108. Sales, When competitive bidding not required.** The City may sell the following without giving an opportunity for competitive bidding after it has declared them obsolete or surplus:

1. Surplus or obsolete supplies, materials or equipment whose total value does not exceed Seven Thousand Five Hundred Dollars (\$7,500.00) in a single transaction; and
2. Supplies, materials or equipment when sold at a price at least as great as that paid by the City for the same.

## Chapter 2

### SALES TAX

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## Article A

### Sales Tax Code

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Sec. 7-219.	Provisions cumulative. . . . .	7.7
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**Sec. 7-201. Citation.** This Article shall be known and may be cited as the “Wagoner Sales Tax Ordinance.”

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-202. Definitions.**

**A.** The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, 68 O.S. §1352 and §1352.1, and all subsections thereof and amendments thereto, are hereby adopted by reference and made a part of this ordinance.

**B.** The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*City* means the City of Wagoner, Oklahoma.

*Tax collector* means the department of the City or the official agency of the state duly designated according to law or contract authorized by law to administer the collection of the tax herein levied.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-203. Classification of taxpayers.** For the purpose of this article, the classification of taxpayers hereunder shall be as prescribed by state law for purposes of the Oklahoma Sales Tax Code.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-204. Subsisting state permits.** All valid and subsisting permits to do business issued by the state tax commission pursuant to the Oklahoma Sales Tax Code are, for the purpose of this article, hereby ratified, confirmed and adopted in lieu of any requirement for an additional City permit for the same purpose.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-205. Sales tax levied.** There is hereby levied, pursuant to 68 O.S. §2701, and amendments thereto, an excise tax, also known as a sales tax, of three percent (3%) of the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code, including any and all amendments thereto and revisions thereof.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-206. Purpose of revenues; disposition of proceeds.** It is hereby declared to be the purpose of this ordinance to provide revenues for the support of the functions of the municipal government of the City, and any and all revenue derived hereunder may be expended by the council of the City for the following purposes: (i) five-sixth ( $\frac{5}{6}$ ) of the revenues be used for general municipal purposes and (ii) one-sixth ( $\frac{1}{6}$ ) of the revenues be used for economic development.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-207. Exemptions.** There is hereby specifically exempted from the tax levied pursuant to the provisions of this ordinance the gross receipts or gross proceeds exempted by the Oklahoma Sales Tax Code, including any and all amendments to and revisions thereof.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-208. Bracket system guidelines.**

**A.** The bracket system guidelines established by the Oklahoma Tax Commission, including all amendments thereto and revisions of thereof, are hereby adopted for the convenience of vendors in the City for collecting both the state sales tax and the city sales tax. Such bracket system guidelines shall be interpreted so as not to be inconsistent with the purposes provided in 68 O.S. §1362, and all subsections thereof and amendments thereto, of the Oklahoma Sales Tax Code.

**B.** The use of the bracket system guidelines does not relieve the vendor from the duty and liability to remit to the tax collector an amount equal to the applicable percentage of the gross receipts or gross proceeds (less discounts allowed by law and ordinance) derived from all sales during the taxable period.

(New: Ordinance No. 932 9/11/2017)



**Sec. 7-209. Tax due and payable.** The tax levied under this article shall be due and payable at the time and in the manner and form prescribed for payment of the state sales tax under the Oklahoma Sales Tax Code.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-210. Payment of tax.** The tax herein levied shall be paid to the tax collector at the time in form and manner provided for payment of state sales tax under the Oklahoma Sales Tax Code.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-211. Tax constitutes prior claim.** All taxes, interest and penalties imposed pursuant to this ordinance shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors and may be collected by suit as any other debt.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-212. Vendor's duty to collect tax.**

**A.** The tax levied hereunder shall be paid by the consumer or user to the vendor; and each and every vendor shall collect from the consumer or user the full amount of the tax levied, or an amount equal as nearly as possible or practicable to the average equivalent thereof. Every person required to collect any tax imposed by this chapter, and in the case of a corporation each principal officer thereof, shall be personally liable for such tax.

**B.** Vendors shall add the tax imposed hereunder, or the average equivalent thereof, to the sales price or charge and, when added, such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to the vendor until paid, and shall be recoverable at law in the same manner as other debts.

**C.** No vendor shall willfully or intentionally fail, neglect or refuse to collect the full amount of the tax levied; or willfully or intentionally fail, neglect or refuse to comply with the provisions of this ordinance; or remit or rebate to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax herein levied; or make in any form of advertising, verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever.

**D.** Any sum or sums collected or required to be collected in accordance with the provisions of this ordinance shall be deemed to be held in trust for the City. Any person, firm, corporation, joint venture or association that willfully or intentionally fails, neglects or refuses to remit the tax, after the tax levied by this ordinance was collected, shall be guilty of a misdemeanor offense and, upon conviction thereof, shall be punished in accordance with Title 18 of the Code of Ordinances of the City of Wagoner, Oklahoma, and all subsections thereof and amendments thereto.

**E.** It shall be unlawful for any of the following vendors to engage in or transact a business of reselling tangible personal property or services within the City, unless a written sales tax permit has been issued to said vendor:

1. Any vendor who is regularly and continuously engaged in a business at an established place of business and makes sales subject to the Oklahoma Sales Tax Code;
2. Any vendor who is engaged in a business in the City and makes sales incidental to such business which are subject to the Oklahoma Sales Tax Code;
3. Any vendor who is a transient person, firm or corporation and makes seasonal sales, or in any manner becomes subject to the Oklahoma Sales Tax Code; and
4. Any vendor, either within or without this state, who makes sales, subject to the Oklahoma Sales Tax Code, through peddlers, solicitors or other salesmen who do not have an established place of business in the City.

Any person who engages in a business subject to the provisions of this section without a permit or permits, or after a permit has been suspended, shall be guilty of a misdemeanor offense and, upon conviction thereof, shall be punished in accordance with Title 18 of the Code of Ordinances of the City of Wagoner, and all subsections thereof and amendments thereto.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-213. Returns and remittances; discount.** Returns and remittances of the tax herein levied and collected shall be made to the tax collector at the time and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Sales Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by such code for collection of state sales taxes.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-214. Interest and penalties; delinquency.**

**A.** The failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this ordinance shall cause such tax to be delinquent.

**B.** The provisions of 68 O.S. §217, and all subsections thereof and amendments thereto, are adopted by reference and made applicable to the tax levied by this ordinance, and interest and penalties at the rates and in the amounts specified therein are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this ordinance, and if such delinquency continues for a period of five (5) days, the taxpayer shall forfeit his claim to any discount allowed under this ordinance.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-215. Waiver of interest and penalties.**

**A.** The interest or penalty or any portion thereof accruing by reason of a taxpayer's failure to pay the tax herein levied may be waived or remitted in the same manner as provided for such waiver or remission as applied in administration of the state sales tax provided in 68 O.S. §220, and all subsections thereof and amendments thereto.

**B.** To accomplish the purposes of this section, the applicable provisions of 68 O.S. §220, and all subsections thereof and amendments thereto, are hereby adopted by reference and made a part of this ordinance.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-216. Erroneous payments; claim for refund.**

**A.** Refund of an erroneous payment of the tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the state sales tax as set forth in 68 O.S. §227, and all subsections thereof and amendments thereto.

**B.** To accomplish the purposes of this section, the applicable provisions of 68 O.S. §227, and all subsections thereof and amendments thereto are adopted by reference and made a part of this ordinance.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-217. Failure to file; fraudulent returns; penalties.** In addition to all civil penalties provided by this article, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this ordinance shall be an offense, and upon conviction thereof, the offending taxpayer shall be subject to punishment in accordance with Title 18 of the Code of Ordinances of the City of Wagoner, and all subsections thereof and amendments thereto.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-218. Tax records confidential.** The confidential and privileged nature of the records and files concerning the administration of the tax herein levied is legislatively recognized and declared; and to protect the same the provisions of 68 O.S. §205, and all subsections thereof and amendments thereto, are hereby adopted by reference and made fully effective and applicable to administration of the tax herein levied.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-219. Provisions cumulative.** The provisions of this ordinance shall be cumulative and in addition to any and all other taxing provisions of the ordinances of the City of Wagoner, Oklahoma, except as herein provided.

(New: Ordinance No. 932 9/11/2017)

**Sec. 7-220. Amendments to ordinance.** The Council of the City of Wagoner, by ordinances duly enacted, is hereby authorized to make such administrative and technical changes or additions in the method and manner of administration and enforcement this ordinance as may be necessary or proper for efficiency and fairness, except that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the City as provided by law.

(New: Ordinance No. 932 9/11/2017)

## Article B

### Wagoner Additional Sales Tax Ordinance of 2017

Sec. 7-231.	Short Title. . . . .	7.7
Sec. 7-232.	Sales tax levied. . . . .	7.7
Sec. 7-233.	Purpose of revenues; disposition of proceeds. . . . .	7.7
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Sec. 7-235.	Enforcement and administration of tax. . . . .	7.7
Sec. 7-236.	Amendments to ordinance. . . . .	7.8

**Sec. 7-231. Short Title.** This ordinance shall be known and may be cited as the "Wagoner Additional Sales Tax Ordinance of 2017."

(New: Ordinance No. 933 9/11/2017)

**Sec. 7-232. Sales tax levied.** There is hereby levied, pursuant to 68 O.S. § 2701, as may be amended, an excise tax, also known as a sales tax, of one percent (1%) of the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code, including any and all amendments thereto and revisions thereof.

(New: Ordinance No. 933 9/11/2017)

**Sec. 7-233. Purpose of revenues; disposition of proceeds.** It is hereby declared to be the purpose of this ordinance to provide revenues to be used for general municipal purposes of the City of Wagoner, Oklahoma.

(New: Ordinance No. 933 9/11/2017)

**Sec. 7-234. Provisions cumulative.** The provisions of this ordinance shall be cumulative and in addition to any and all other taxing provisions of the ordinances of the City of Wagoner, Oklahoma.

(New: Ordinance No. 933 9/11/2017)

**Sec. 7-235. Enforcement and administration of tax.** The excise tax herein levied shall be administered and enforced in the same manner as existing excise taxes, also known as sales taxes.

(New: Ordinance No. 933 9/11/2017)

**Sec. 7-236. Amendments to ordinance.** The Council of the City of Wagoner, by ordinances duly enacted, is hereby authorized to make such administrative and technical changes or additions in the method and manner of administration and by enforcing this ordinance as may be necessary or proper for efficiency and fairness, except that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the City of Wagoner, Oklahoma, as provided by law.

(New: Ordinance No. 933 9/11/2017)

## Chapter 3

### TELEPHONE EXCHANGE TAX

Sec. 7-301.	Fee levied on telephone exchanges. . . . .	7.8
Sec. 7-302.	Fee to be in lieu of other fees, taxes. . . . .	7.8

**Sec. 7-301. Fee levied on telephone exchanges.** There is hereby levied an annual inspection fee and service charge upon each and every person, firm, or corporation operating a telephone exchange in the City in an amount equal to two percent (2%) of the gross revenues for each current year for exchange telephone transmission service rendered wholly within the limits of the city to compensate the City for the expenses incurred and service rendered incident to the exercise of its police power, supervision, police regulations, and police control of the construction of lines and equipment of the telephone company in the City. The inspection fee and charge shall be on a calendar year basis and shall be due and payable to the City on or before June 30 in each year for the whole of the calendar year next preceding the date and shall be paid into and appropriated and expended from the general revenue fund of the City.

**Sec. 7-302. Fee to be in lieu of other fees, taxes.** During continued substantial compliance with the terms of this chapter by the owner of any telephone exchange, the charge levied hereby shall be and continue to be in lieu of all concessions, charges, excise, franchise, license, privilege, and permit fee or taxes or assessments, except ad valorem taxes. However, it is not intended hereby to extinguish or abrogate any existing arrangement whereby the City is permitted to use underground conduit, duct space, or pole contacts of the company for the fire alarm or police calls systems of the City.

## Chapter 4

### UTILITIES TAX

Sec. 7-401.	Fee levied; application. . . . .	7.8
Sec. 7-402.	Tax to be paid monthly and placed in general revenue fund. . . . .	7.8
Sec. 7-403.	Failure to pay; action for collection. . . . .	7.8
Sec. 7-404.	Tax lien. . . . .	7.9

**Sec. 7-401. Fee levied; application.** There is hereby levied and assessed an annual tax of two percent (2%) upon the gross receipts from residential and commercial sales of gas in the City. Such tax shall apply to all persons, firms, associations or corporations engaged in the business of furnishing gas within the City, except that it shall not apply to any person, firm, association or corporation operating under a valid franchise from the City nor apply to utilities furnished by the City.

**Sec. 7-402. Tax to be paid monthly and placed in general revenue fund.** The tax levied under this chapter shall be payable monthly and placed in the general revenue fund of the City.

**Sec. 7-403. Failure to pay; action for collection.** If any person fails or refuses to pay the tax levied by this chapter, an action may be maintained against such person for the amount of the tax and all expenses of collecting same, including reasonable attorney's fees.

**Sec. 7-404. Tax lien.** The tax imposed by this chapter shall constitute a first and prior lien on all the assets located within the city of any person engaged in the business of selling power, light, heat, gas, electricity or water within the City and subject to such tax.

## Chapter 5

### USE TAX

Sec. 7-501.	Citation. . . . .	7.9
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Sec. 7-509.	Remunerative deductions allowed vendors or retailers of other states. . . . .	7.11
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Sec. 7-520.	Subsisting State permits. . . . .	7.12
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**Sec. 7-501. Citation.** The provisions of this Chapter shall be known and may be cited as “City of Wagoner Use Tax Code.”

**Sec. 7-502. Excise tax on storage, use or other consumption of intangible, personal property levied.** There is hereby levied and there shall be paid by every person storing, using or otherwise consuming within the City tangible, personal property purchased or brought into this City, an excise tax on the storage, use or other consumption within the municipality of such property at the same rate as the sales tax as set out in Title for the purchase of such property. Such tax shall be paid by every person storing, using or otherwise consuming, within the City, tangible, personal property purchased or brought into the City. The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the City and shall be assessed only on property purchased outside Oklahoma; provided, that the tax levied herein shall not be levied against tangible, personal property intended solely for use outside the City, but which is stored in the City pending shipment outside the City or which is temporarily retained in the City for the purpose of fabrication, repair, testing, alteration, maintenance or other service. Any person liable for payment of the tax authorized herein, may deduct from such tax any local or City sales tax previously paid on such goods or services; provided that the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the City had been levied on the sale of such goods or services.

**Sec. 7-503. Exemptions.** The provisions of this Chapter shall not apply:

1. To the use of an article of tangible, personal property brought into the City by a nonresident individual visiting in this municipality for his or her personal use or enjoyment while within the City;
2. To the use of tangible, personal property purchased for resale before being used;
3. To the use of any article of tangible, personal property on which a tax, equal to or in excess of that levied by both the Oklahoma Use Tax Code and this Chapter, has been paid by the person using such tangible, personal property in the City, whether such tax was levied under the laws of Oklahoma or some other state or municipality of the United States. If any article of tangible, personal property has already been subjected to a tax by Oklahoma or any other state or municipality respect to its sale or use, in an amount less than the tax imposed by both the Oklahoma Use Tax Code and this Chapter measured by the difference only between the rate provided by both the Oklahoma Use Tax Code and this Chapter, and the rate by which the previous tax upon the sale or use was computed. Provided, that no credit shall be given for taxes paid in another state or municipality, if that state or municipality does not grant like credit for taxes paid in Oklahoma and the City;
4. To the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the City, and machinery and equipment purchased and used by persons to the operation of manufacturing plants already established in the City. Provided, this exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to taxation under the Sales Tax Code of the City. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;
5. To the use of tangible, personal property now specifically exempted from taxation under the Sales Tax Code of the City;
6. To the use of any article of tangible personal property brought into the City by an individual with intent to become a resident of this City where such personal property is for such individual's personal use or enjoyment;
7. To the use of any article of tangible personal property used or to be used by commercial airlines or railroads; or
8. To livestock purchased outside Oklahoma and brought into this City for feeding or breeding purposes, and which is later resold.

**Sec. 7-504. Time when due; returns; payment.** Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.

**Sec. 7-505. Tax constitutes debt.** Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.

**Sec. 7-506. Collection of tax by retailer or vendor.** Every retailer or vendor maintaining places of business both within and without the State of Oklahoma, and making sales of tangible, personal property from a place of business outside this state for use in this City shall at the time of making such sales collect the use tax levied by this Chapter from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Tax Commission, if the Tax Commission shall by regulation require such receipt. Each retailer or vendor shall list with the Tax Commission the name and address of all his agents operating in this municipality and location of any and all distribution or sales houses or offices or other places of business in this City.

**Sec. 7-507. Collection of tax by retailer or vendor not maintaining a place of business within state or both within and without state; permits.** The Tax Commission may, in its discretion, upon application, authorize the collection of the tax herein levied by any retailer or vendor

not maintaining a place of business within this state but who makes sales of tangible personal property for use in this municipality and by the out-of-state place of business of any retailer or vendor maintaining places of business both within and without Oklahoma and making sales of tangible, personal property at such out-of-state place of business for use in this City. Such retailer or vendor may be issued, without charge, a permit to collect such taxes, by the Tax Commission in such manner and subject to such regulations and agreements as it shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible, personal property sold to his knowledge for use within this City. Such authority and permit may be canceled when at any time the Tax Commission considers that such tax can more effectively be collected from the person using such property in this City. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this City by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable City sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly.

**Sec. 7-508. Revoking permits.** Whenever any retailer or vendor not maintaining a place of business in this State, or both within and without this State and authorized to collect the tax herein levied, fails to comply with any of the provisions of this Chapter or the Oklahoma Use Tax Code or any order, rules or regulations of the Tax Commission, the Tax Commission may, upon notice and hearing as provided for in 68 O.S. 1963, Section 1408, by order revoke the use tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in this State may, after notice and hearing above provided, cancel said corporation's license to do business in this State and shall issue a new license only when such corporation has complied with the obligations under this Chapter, the Oklahoma Use Tax Code, or any order, rules or regulations of the Tax Commission.

**Sec. 7-509. Remunerative deductions allowed vendors or retailers of other states.** Returns and remittances of the tax herein levied and collected shall be made to the Tax Commission at the time and in the manner, form and amount as prescribed for returns and remittances required by the Oklahoma Use Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said code for the collection of state use taxes.

**Sec. 7-510. Interest and penalties; delinquency.** Section 217 of Title 68 O.S. 2003 is hereby adopted and made a part of this Chapter, and interest and penalties at the rates and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Chapter. Provided, that the failure or refusal of any retailer or vendor to make and transmit the reports and remittances of tax in the time and manner required by this Chapter shall cause such tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days, the retailer or vendor shall forfeit his claim to any discount allowed under this Chapter.

**Sec. 7-511. Collection of interest and penalties.**

**Sec. 7-512. Waiver of interest and Penalties.** The interest or penalty or any portion thereof accruing by reason of a retailer's or vendor's failure to pay the municipality Tax herein levied may be waived or remitted in the same manner as provided for said waiver or remittance as applied in administration of the State Use Tax provided in 68 O.S. 2001, Section 227, and to accomplish the purposes of this section the applicable provisions of said Section 220 are hereby adopted by reference and made part of this Chapter.

**Sec. 7-513. Erroneous payments; claim for refund.** Refund of erroneous payment of the City use tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the State Use Tax as set forth in 68 O.S. 2001, Section 227, and to accomplish the purpose of this section, the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this Chapter.

**Sec. 7-514. Fraudulent returns.** In addition to all civil penalties provided by this Chapter, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Chapter shall be guilty of a misdemeanor, and upon conviction, shall

be punished as provided in this code. Each day of noncompliance with this Chapter shall constitute a separate offense.

**Sec. 7-515. Records confidential.** The confidential and privileged nature of the records and files concerning the administration of the City Use Tax is legislatively recognized and declared, and to protect the same the provisions of 68 O.S. 2000, Section 205, of the State Use Tax Code, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the City use tax as if herein set forth in full.

**Sec. 7-516. Provisions cumulative.** The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the ordinances of the City.

**Sec. 7-517. Provisions severable.** The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence or clause of this Chapter is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not affect any other section, paragraph, sentence or clause hereof.

**Sec. 7-518. Definitions.** The definitions of words, terms, and phrases contained in the Oklahoma Use Tax Code, Section 1401, 68 O.S. 2003, are hereby adopted by reference and made a part of this Chapter. The following words and terms are defined as:

1. "Transaction" shall mean sale.
2. "Tax collector" shall mean the department of the City government or the official agency of the State, duly designated according to law or contract authorized by law, to administer the collection of the tax herein levied.

**Sec. 7-519. Classification of taxpayers.** For the purpose of this Chapter, the classification of taxpayers hereunder shall be as prescribed by State law for purposes of the Oklahoma Use Tax Code.

**Sec. 7-520. Subsisting State permits.** All valid and subsisting permits to do business issued by the Tax Commission pursuant to the Oklahoma Use Tax Code are for the purpose of this Chapter hereby ratified, confirmed and adopted in lieu of any requirement for an additional City permit for the same purpose.

**Sec. 7-521. Purposes of Revenues.** It is hereby declared to be the purpose of this Chapter to provide revenues for the support of the functions of the government of the City, and any and all revenues derived hereunder may be expended by the Council of the City for any purpose for which funds may be lawfully expended as authorized.

## Chapter 6

### HOTEL TAX

Sec. 7-601.	Citation. . . . .	7.13
Sec. 7-602.	Definitions. . . . .	7.13
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Sec. 7-605.	Operator responsible for collection. . . . .	7.14
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Sec. 7-607.	Records. . . . .	7.14
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Sec. 7-619.	Records confidential. . . . .	7.16
Sec. 7-620.	Fraudulent returns. . . . .	7.16
Sec. 7-621.	Amendments. . . . .	7.16
Sec. 7-622.	Provisions cumulative. . . . .	7.16

**Sec. 7-601. Citation.** The provisions of this Chapter shall be known and may be cited as “City of Wagoner Hotel Tax Code.”

**Sec. 7-602. Definitions.** The following words and phrases shall have the meanings respectively ascribed as follows:

1. “Director” shall mean the director of finance of the City of Wagoner.
2. “Hotel” shall mean any building or buildings, structures, trailer, or other facility in which the public may, for consideration, obtain sleeping accommodations in which five (5) or more rooms are used for the accommodation of transient guests whether such rooms are in one or several structures. The term shall include hotels, apartment hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, trailer houses, trailer motels, apartments and sleeping rooms not occupied by “permanent residents,” and all other facilities where rooms or sleeping accommodations or space are furnished for a consideration. The term shall not include hospitals, sanitariums, nursing homes, or dormitories at educational or charitable institutions.
3. “Occupancy” shall mean the use or possession, or the right to the use or possession, of any room or rooms in a hotel or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.
4. “Occupant” shall mean a person who for a consideration uses, possesses, or has the right to the use or possession of any room or rooms in a hotel under any lease, concession, permit, right of access, license to use, or other agreement.
5. “Operator” shall mean any person operating a hotel in this City, including, but not limited to, the owner, proprietor, lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel.
6. “Rent” shall mean the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.
7. “Return” shall mean any return filed or required to be filed as herein provided.
8. “Room” shall mean any room or rooms of any kind in any part or portion of a hotel which is available for or let out for use or possessed for any purpose other than a place of assembly. As used herein, “place of assembly” means a room or space which is not capable of being occupied for lodging purposes and which is used for educational, recreational, or amusement purposes and shall include: dance halls; cabarets; night clubs; restaurants; any room or space for public or private banquets, feasts, socials, card parties, or weddings; lodge and meeting halls or rooms; skating rinks; gymnasi-ums; swimming pools; billiards, bowling, and table tennis rooms; halls or rooms used for public or private catering purposes; funeral parlors; markets; recreational rooms; concert halls; broadcasting studios; and all other places of similar type of occupancy.
9. “Tax” shall mean the tax levied pursuant to this Chapter.

**Sec. 7-603. Tax levied.** There is hereby levied an excise tax of four percent (4%), but not less than five dollars (\$5.00) per day, on the gross receipts derived from rentals received from occupancy of hotel rooms within the City.

**Sec. 7-604. Tax to be designated.** The operator shall separately designate, charge, and show all taxes on all bills, statements, receipts, or any other evidence of charges or payment of rent for occupancy issued or delivered by the operator.

**Sec. 7-605. Operator responsible for collection.** The operator shall be responsible for the collection of the tax levied by the preceding section from the occupant and shall be liable to the City for said tax.

**Sec. 7-606. Discount.** In order to remunerate an operator for keeping tax records, filing reports, and remitting the tax when due, a discount equal to that allowed by the Oklahoma Tax Commission for the collection of sales tax shall be allowed upon all taxes paid prior to the time they become delinquent.

**Sec. 7-607. Records.** It shall be the duty of every operator required to make a return and pay any tax under this Chapter to keep and preserve suitable records of the gross daily rentals together with other pertinent records and documents which may be necessary to determine the amount of tax due hereunder and such other records as will substantiate and prove the accuracy of such returns. All such records shall remain in the City and be preserved for a period of three (3) years, unless the Director, in writing, has authorized their destruction or disposal at an earlier date, and shall be open to examination at any time by the director or by any of his duly authorized agents. The burden of proving that a sale was not a taxable sale shall be upon the operator who made the sale.

**Sec. 7-608. Returns.**

**A.** The tax levied hereunder shall be due and payable to the Director on the first day of each month, except as herein provided, by any person liable for the payment of any tax due under this Chapter. For the purpose of ascertaining the amount of the tax payable under this Chapter, it shall be the duty of all operators, on or before the 15th day of each month, to deliver to the Director, upon forms prescribed and furnished by him, returns, under oath, showing the gross receipts or gross proceeds arising from rents received from occupancy of hotel rooms during the preceding calendar month. Such returns shall show such further information as the Director may require to correctly compute and collect the tax herein levied. In addition to the information required on returns, the Director may request and the operator shall furnish any information deemed necessary for a correct computation of the tax levied herein. Such operator shall compute and remit to the Director the required tax due for the preceding calendar month. The remittance or remittances of the tax shall accompany the returns herein required. If not paid on or before the 15th of such month, the tax shall be delinquent after such date; provided, that no interest or penalty shall be charged on such return if filed on or before the 20th day of such month.

**B.** The Director may permit or require returns to be made by shorter or longer periods and upon such dates as he may specify. The form of return shall be prescribed by the Director and shall contain such information as he may deem necessary for the proper administration of this Chapter. The Director may require amended returns to be filed with twenty (20) days after notice, which amended return shall contain the information specified in the notice.

**Sec. 7-609. Payment of tax.** At the time of filing a return of occupancy and of rents, each operator shall pay to the director the tax imposed by this article upon the rents included in such return, as well as all other monies collected by the operator acting or purporting to act under the provisions of this Chapter.

**Sec. 7-610. Bond required.** Where the Director believes that any operator is about to cease business, leave the State, or remove or dissipate assets, or for any other similar reason he deems it necessary in order to protect revenues under this article, he may require such operator to file with the City a bond issued by a surety company authorized to transact business in this State in such amount as the director may fix to secure the payment of any tax or penalties and interest due, or which may become due, from such operator. In the event that the Director determines that an operator is to file such bond, he shall give notice to such operator specifying the amount of bond required, which shall in no event exceed twice the amount of the sum in controversy. The operator shall file such bond within five (5) days after receiving such notice unless within such five (5) days the operator shall request in writing a hearing before the Council at which time the necessity and amount of the bond shall be determined

by the Council. Such determination shall be final and shall be complied with within fifteen (15) days thereafter. In lieu of such bond, securities approved by the director or cash in such amount as he may prescribe may be deposited with the Director, who may at any time after five (5) days notice to the depositor apply them to any tax and/or any penalties due, and for that purpose the securities may be sold at private or public sale.

**Sec. 7-611. Assessment and determination of tax.** If a return required by this Chapter is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the Director from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, types of accommodations and services, number of employees, or other factors. Written notice of such assessments shall be given to the person liable for the collection and payment of the tax. Such assessment shall finally and irrevocably fix and determine the tax unless the person against whom it is assessed, within ninety (90) days after the giving of notice of such assessment, shall apply in writing to the Council for a hearing or unless the director upon his own initiative shall reassess the same. After such hearing, the Council shall give written notice of its determination to the person against whom the tax is assessed and such determination shall be final.

**Sec. 7-612. Refunds.**

**A.** The Director shall refund or credit any tax erroneously, illegally, or unconstitutionally collected if written application to the director for such refund shall be made within ninety (90) days from the date of payment thereof. For like causes and in the same period, a refund may be made upon the initiative and the order of the Director. Whenever a refund is made, the reasons therefor shall be stated in writing. Such application may be made by the person upon whom such tax was imposed and who has actually paid the tax. Such application may also be made by the person who has collected and paid such tax to the Director provided that the application is made within ninety (90) days of the payment by the occupant to the operator, but no refund of money shall be made to the operator until he has repaid to the occupant the amount for which the application for refund is made. The Director, in lieu of any refund required to be made, may allow credit therefor on payments due from the applicant.

**B.** Upon application for a refund the Director may receive evidence with respect thereto, and make such investigation as he deems necessary. After making a determination as to the refund, the Director shall give notice thereof to the applicant. Such determination shall be final unless the applicant, within ninety (90) days after such notice, shall apply in writing to the Council for a hearing. After such hearing, the Council shall give written notice of its decision to the applicant.

**Sec. 7-613. Notices.** Any notice provided for under this Chapter shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States Mail addressed to the last known address of the operator.

**Sec. 7-614. Remedies exclusive.** The remedies provided in this Chapter shall be exclusive remedies available to any person for the review of tax liability imposed by the Chapter.

**Sec. 7-615. Powers of Director.** In addition to all other powers granted to the director, he is hereby authorized and empowered:

1. To make, adopt, and amend rules and regulations appropriate to the collection of taxes pursuant to this Chapter;
2. To extend for cause shown the time for filing any return for a period not exceeding sixty (60) days; and, for cause shown, to waive, remit, or reduce penalties or interest;
3. To delegate his function hereunder to an assistant or other employee or employees of the City;
4. To assess, reassess, determine, revise, and readjust the taxes imposed by this Chapter; and
5. To prescribe methods for determining the taxable and nontaxable rents

**Sec. 7-616. Registration certificates; certificates of authority.** Every operator shall file with the Director a registration certificate in a form prescribed by said director within ten (10) days after the effective date of this Chapter or, in the case of operators commencing business or opening new hotels after such effective date, within three (3) days after such commencement or opening. The Director shall, within five (5) days after the filing of such certificate, issued without charge to each operator a certificate of authority empowering such operator to collect the tax from the occupant and duplicates thereof for each additional hotel. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificate of authority shall be permanently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the Director upon the cessation of business at the hotel, or upon its sale or transfer.

**Sec. 7-617. Administration.** One (1) percent of the gross receipts derived from taxes collected pursuant to this Chapter shall be retained by the office of the Director for the purpose of administering and collecting the tax.

**Sec. 7-618. Interest.** If any tax levied by this article becomes delinquent, the person responsible and liable for such tax shall pay interest on such unpaid tax at the rate of one and one-half percent (1 1/2%) per month on the unpaid balance from the date of delinquency until said unpaid balance is paid in full.

**Sec. 7-619. Records confidential.** The confidential and privileged nature of the records and files concerning the administration of the tax is legislatively recognized and declared; and to protect the same, the provisions of 68 Oklahoma Statutes 1985, Section 205 of the State Sales Tax Code, and each subsection thereof, are hereby adopted by reference and made fully effective and applicable to the administration of this Chapter as if herein set forth.

**Sec. 7-620. Fraudulent returns.** The willful failure or refusal of any operator to make reports and remittances herein required, or the making of any false or fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Chapter shall be guilty of a misdemeanor, and upon conviction, shall be punished as provided in this code.

**Sec. 7-621. Amendments.** The Council may, by ordinance duly enacted, make such administrative and technical changes or additions in the method and manner of administering and enforcing this Chapter as may be necessary or proper for efficiency and fairness, except that the rate of the tax herein provided shall not be changed without approval of the qualified voters of the City as provided by law.

**Sec. 7-622. Provisions cumulative.** The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of city ordinances.

# Title 8

## HEALTH AND SANITATION

### Chapter 1

#### WEEDS AND RUBBISH

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**Sec. 8-101. Definitions.** The following words, terms and phrases, and their derivations, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. “Weed or weeds’ shall mean poison ivy, poison oak or poison sumac and all vegetation at any stage of maturity which:

- a. Exceeds twelve (12) inches in height, except healthy trees, shrubbery or produce for human consumption or grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit or welfare of the public or constitute a hazard to traffic or create a fire hazard or otherwise interfere with the mowing of the weeds;
- b. Regardless of height, harbors, conceals or invites deposits or accumulations of rubbish;
- c. Harbors rodents or vermin;
- d. Gives off unpleasant or noxious odors;
- e. Constitutes a fire or traffic hazard; or
- f. Is dead or diseased.

2. “Rubbish” means junk, trash or garbage.

3. “Junk” means scrap metals and alloys, including but not by way of limitation, scrap brass, scrap copper, scrap iron, scrap lead, scrap tin, and scrap zinc; bones, rags; used cloth; used rope; used rubber; used tinfoil; used bottles; old or used machinery not used on the premises for their original purpose; used tools, used appliances, used fixtures; used utensils, used lumber; used boxes or crates (fabricated of any material); used pipe or pipe fittings; used conduit or conduit fittings; used tires; and manufactures goods, that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

4. "Trash or garbage" means any refuse, ashes, leaves, debris, paper, combustible materials, offal, waste, matter of any kind or form which is uncared for, discarded or abandoned, whether solid or liquid in form; worthless or discarded material, and worn or used items having little or no value.

5. "Owner" means the owner of record as shown by the most current tax rolls of the County Treasurer.

**Sec. 8-102. Accumulation of trash or weeds unlawful.**

A. It is unlawful for any owner, or any other person in possession or control, of any lot, tract or parcel of land situated wholly or in part within the corporate limits of the City to allow rubbish or weeds to grow, stand or accumulate upon such premises and it is the duty of such owner to remove or destroy any such rubbish or weeds.

B. This Chapter shall not apply to any property zoned and used for agricultural purposes.

**Sec. 8-103. Reports of accumulation of grass, weeds or trash.** Any officer or employee of the City who discovers an accumulation of rubbish or the growth of weeds, or both these conditions, upon any premises within the limits of the City, shall report the condition to the City Superintendent if, as a result of the accumulation or growth, the premises appear to be:

1. Detrimental to the health, benefit and welfare of the public;
2. A hazard to traffic; or
3. A fire hazard.

**Sec. 8-104. Receipt of report, hearing and notice.**

A. Upon receiving the report provided for in the preceding section of this Code, or upon receipt of equivalent information from any reliable source, the City Superintendent shall give written notice of the provisions of this section and that premises are in violation of this chapter by forwarding a copy thereof by mail to the owner of the property at the address shown by the current year's tax rolls in the office of the treasurer of the county in which the property is located. If the property owner cannot be located, notice may be given by posting a copy of the notice on the property or by publication in a newspaper of general circulation one time not less than ten (10) days prior to the date of a hearing by the City Superintendent or before he takes action. At the time of mailing of notice to the property owner, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer. If the City anticipates summary abatement as provided in Subsection D of this section, the notice shall contain further language as required by law as to possible future summary abatement action which may be taken by the City.

B. At least ten (10) days from the date of receipt of then notice by the owner or the date of publication and upon the date specified in the notice, the City Superintendent may hear the matter and receive information thereon, including anything which may be presented by the owner of the premises, personally or by an agent or attorney. If the City Superintendent determines that any of the conditions specified in the preceding section of this Code exist upon the premises, he may order the property to be cleaned of rubbish, or weeds to be cut, removed or destroyed unless within ten (10) days from the date of receipt of the notice or date of publication the owner either:

1. Cuts, removes or destroys the rubbish or weeds in accordance with the notice; or
2. Gives written consent authorizing the City to abate the rubbish or weeds, thereby waiving his right to a hearing.

C. A property owner shall have a right of appeal to the Council from any order of the City Superintendent. Such appeal shall be taken by filing written notice of appeal with the City Clerk within ten (10) days of the administration's order is rendered.

D. If the City causes property within the City to be cleaned of rubbish and weeds or grass to be cut or mowed in accordance with the procedures provided for in this section, any subsequent

accumulations of rubbish or excessive weeds on the property occurring within a six-month period may be declared to be a nuisance and may be summarily abated without further prior notice to the property owner. At the time of each summary abatement the City shall notify the property owner of the abatement and the costs thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. The notice and hearing shall be as provided for in this section. Unless otherwise determined at the hearing the cost of such abatement shall be determined and collected as provided for in this chapter. This subsection shall not apply if the records of the County Clerk show that the property was transferred after notice was given pursuant to this section.

**Sec. 8-105. Right of entry, work done by employees or contract.**

**A.** Upon finding that the condition of the property constitutes a detriment or hazard as specified in this Chapter, and that the public health or safety would be benefited by the removal of such conditions, the agents of the City are granted the right of entry on the property to remove rubbish, mow weeds or grass, and perform necessary duties as a governmental function.

**B.** The work ordered to be performed pursuant to this Chapter may be done by the employees of this City or it may be let by contract in the manner for letting other contracts.

**Sec. 8-106. Determination and assessment of costs.** Upon the completion of the work ordered to be performed under the preceding section, the City Superintendent shall prepare a report on the cost thereof. Such report may be itemized as to each tract of property involved as follows:

1. labor;
2. machinery rental or depreciation;
3. fuel and supplies;
4. cost of notice; and
5. other allowable costs.

The City Clerk shall forward a statement and demand payment of the total cost by mail to the owner of the property at the address shown by the current tax rolls in the office of the County Treasurer.

**Sec. 8-107. Lien on the property, civil remedy.** If the costs of the work performed under this chapter are not paid within thirty (30) days from the date of mailing the notice prescribed by this chapter, the City Clerk shall forward a certified statement of the amount of the costs to the county treasurer of the county in which the property upon which the work was done is located, in order that the amount be levied upon the property upon and be collected by the county treasurer in the manner prescribed by the law of this state. Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner and a lien against the property as provided by law. The lien on the property is coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property. The lien shall continue until the cost is fully paid. At any time prior to collection as provided herein, the City may pursue any civil remedy for collection of the amount owing and interest thereon, including an action *in personam* against the property owner and an action in rem to foreclose its lien against the property. Upon receiving payment, if any, the City Clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien.

**Sec. 8-108. Council may designate officer to perform duties.** The Council may designate an officer to perform the duties of this Chapter. In the absence of such designation the City Superintendent shall perform such duties.

**Sec. 8-109. Unlawful to deposit rubbish.** It is unlawful for any person to throw, place or deposit, except in public receptacles, any weeds, rubbish, junk, trash, garbage or any other waste matter on any street, avenue, alley or in any ditch or watercourse, or upon the premises of another, or upon any public ground in this City.

**Sec. 8-110. Removal of dead animals.** The owner or any person having charge of any animal dying in this City, shall within twenty-four (24) hours after the death of such animal, remove its carcass, and failure to do so shall constitute a misdemeanor.

**Sec. 8-111. Burning weeds, rubbish, etc. prohibited.** It is unlawful to burn weeds, rubbish, junk, trash or garbage within the City except as may be permitted by this Code.

**Sec. 8-112. Expectorating, deposit of medical materials.**

**A.** It shall be unlawful for any person to expectorate upon any street, avenue, alley or in any ditch or watercourse, or upon the premises of another or upon any public ground in this City, or upon the floors or walls of any building used for public purposes in the City.

**B.** It shall be unlawful for any person, company or corporation to throw, leave or deposit or cause to be thrown, left or deposited upon any street, avenue, alley, sidewalk or in any of the parks or other public places within this City, any medicine or medical supplies of any kind or description whatsoever.

**Sec. 8-113. Contagious disease.**

**A.** It shall be unlawful for any person affected with or exposed to any contagious or infectious disease to knowingly appear upon any street or in any public place so as to expose other persons to such disease.

**B.** It shall be unlawful for any parent, guardian or person having charge of any child or children, knowingly to allow, permit or suffer such child or children to attend school or gathering of people, or to appear upon any street, or in any public place in this City while affected with or exposed to any contagious or infectious disease, or in any other manner so as to expose other persons to such disease.

## Chapter 2

### FOOD AND RESTAURANTS

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**Sec. 8-201. Definitions.** The following words, terms and phrases, and their derivations, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Food" shall include all articles used for food, drink, confectionery or condiment by man or animal, whether the same be simple or compound.
2. "Food establishment" shall mean any place, whether temporary or permanent, stationary or mobile, or whether it be considered public or private, where food or drink is prepared, processed, manufactured, packaged, stored, offered for sale, or distributed free, but excluding any area where food is prepared for what is commonly known as the family unit and their nonpaying guests.
3. "Food Handler" shall mean any person who engages in the preparation, serving, processing, manufacturing, packaging, storing, offering for sale or distributing free food to the public or who engages in the handling of food utensils in a food establishment.
4. "Director" shall mean the Director of the Wagoner County Health Department.



**Sec. 8-202. Food service regulations adopted.** The latest edition of the “Oklahoma State Department of Health Rules and Regulations Pertaining to Food Establishments” is hereby adopted and incorporated in this Code by reference. At least one copy of the rules and regulations shall be on file in the office of the City Clerk. The rules and regulations shall govern the definitions; inspection of food service establishments; the issuance, suspension, and revocation of permits to operate food service establishments; the prohibiting of the sale of adulterated or misbranded food or drink and the enforcement of this section.

**Sec. 8-203. Food handler’s permit required.**

**A.** Except as otherwise provided in this Chapter, it shall be unlawful for any person who operates a food establishment in the City, to hire or permit to be hired, or permit to work gratis, any food handler who does not possess a food handler’s permit as required by the preceding section.

**B.** Except as otherwise provided in this Chapter, it shall be unlawful for any person to perform the duties or to engage in the activities of a food handler in a food establishment without a current food handler’s permit.

**Sec. 8-204. Application for permit.** Except as otherwise provided in this Chapter, all food handlers shall apply for and obtain a food handler permit from the Wagoner County Health Department.

**Sec. 8-205. Exception.** The permit required by this Chapter shall not be required of a non-paid person to prepare or serve food at occasional fund-raising events sponsored and conducted by non-profit civic, charitable, educational or religious organizations.

**Sec. 8-206. Penalty.** Any person who violates any provision of this Chapter or the standards or codes adopted herein shall, upon conviction, be punished and as provided in this Code.

# Chapter 3

## JUNKED, WRECKED MOTOR VEHICLES

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**Sec. 8-301. Definitions.** The following words, terms and phrases, and their derivations, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. “Junk motor vehicle” is any motor vehicle, as defined herein, which is wrecked, dismantled, partially dismantled, inoperative, abandoned, discarded or which does not have lawfully affixed thereto, if required by the Oklahoma Vehicle License and Registration Act, an unexpired license plate or plates;
2. “Motor vehicle” is any type of conveyance or device in, upon, or by which a person or property is or may be transported from one location to another upon the avenues of public access within the city; which is self-propelled; or which may be connected to and towed by a self-propelled device. The term “Motor Vehicle” also includes any and all other land-based devices which are self-propelled but which are not designed for use upon a highway, including but not limited to, farm machinery and construction equipment;

3. "Private property" means any real property which is not public property;
4. "Public property" means that property which is dedicated to the public use and over which the federal, state or municipal governments or any political subdivision thereof exercises control and dominion.

(Amended: Ordinance No. 952 August 3, 2020)

**Sec. 8-302. Junk motor vehicle prohibited; nuisance declared.**

A. It is unlawful and shall constitute a public nuisance for any person to park, store, leave or permit the parking, storing or leaving of any junk motor vehicle or motor vehicle parts, whether attended or not, upon any public or private property within the City for a period of time in excess of seventy-two (72) hours. The presence of a junk motor vehicle or motor vehicle parts on public or private property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this Chapter.

B. The provisions of this Chapter shall not apply to:

1. any vehicle enclosed within a building on private property;
2. any vehicle held in connection with a lawful business enterprise operated in an appropriate zone pursuant to the zoning ordinance;
3. any motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways; or
4. any vehicle retained by the owner for antique collection purposes and held in a storage place maintained in a lawful manner.

(Amended: Ordinance No. 952 August 3, 2020)

**Sec. 8-303. Notice to abate.**

A. Whenever it comes to the attention of the City Superintendent, or his or her designee, that any nuisance, as defined by this Chapter, exists in the City, a notice in writing shall be given to the occupant of the land where the nuisance exists, or in case there is no such occupant, then upon the owner of the property as shown by the ad valorem tax rolls of the County Assessor, notifying them of the existence of the nuisance and ordering its abatement within ten (10) days from the date of the notice. The notice shall advise that upon failure to comply with the order to abate the nuisance the City shall prosecute a criminal complaint for failure to abate the nuisance and shall undertake such abatement with the cost thereof to be levied against the owner or occupant of the property.

B. If, with due diligence, personal service of the notice cannot be given to the owner or occupant of the property, it shall constitute sufficient notice when a copy of the notice is posted in a conspicuous place upon vehicle or upon the private property upon which the vehicle is located and a duplicate copy is mailed by certified mail to the owner or occupant of the property at his or her last known address.

C. The notice shall contain the order for abatement within the time specified in this Chapter, shall advise that upon failure to comply with the order to abate the nuisance the City shall prosecute a criminal complaint for failure to abate the nuisance and shall undertake such abatement with the cost to be levied against the owner or occupant of the property.

(Amended: Ordinance No. 952 August 3, 2020)

**Sec. 8-304. Hearing.**

A. Persons to whom the notices are directed pursuant to the provisions of this Chapter, or their duly authorized agent, may file a written request for hearing before the Council, within the ten-day compliance period for the purpose of disputing the order for removal.

B. The hearing shall be held as soon as practicable after the filing of the request and the person to whom the notices are directed shall be advised of the time and place of the hearing. At any

such hearing the City and the person to whom the notices have been directed may introduce such witnesses and evidence either party deems necessary.

**C.** If the existence of the nuisance is confirmed by the Council at the hearing, the owner or occupant of the property shall have ten (10) days from notification of such confirmation to abate the nuisance.

(Amended: Ordinance No. 952 August 3, 2020)

**Sec. 8-305. Failure to abate nuisance.** If the nuisance described in the notice has not been abated as required by this Chapter, the City Superintendent, or his or her designee, shall have the right to take possession of the junk motor vehicle or motor vehicle parts and remove them from the premises. It shall be unlawful for any person to interfere, hinder, or to refuse to allow the City Superintendent, or his or her designee, to enter upon private property for the purpose of removing a vehicle under the provisions of this Chapter.

(Amended: Ordinance No. 952 August 3, 2020)

**Sec. 8-306. Disposition of Vehicle or Parts.** Upon removing a junked motor vehicle or motor vehicle parts under the provisions of this Chapter, the City Superintendent, or his or her designee, shall dispose of such vehicle or parts in a commercially reasonable manner.

(Amended: Ordinance No. 952 August 3, 2020)

**Sec. 8-307. Redemption of impounded vehicles.** The owner of any junked motor vehicle or motor vehicle parts seized under the provisions of this Chapter may redeem such vehicle or parts at any time after its removal but prior to the sale or destruction thereof upon proof of ownership and payment to the City such sum as may be determined and fixed as the actual and reasonable expense of removal plus storage.

(Amended: Ordinance No. 952 August 3, 2020)

**Sec. 8-308. Collection of costs of abatement.** Upon the failure of the owner or occupant of property to pay the unrecovered expenses incurred by the City for the abatement of the nuisance, the City Superintendent, or his or her designee, may proceed to collect such expenses in any lawful manner.

(Amended: Ordinance No. 952 August 3, 2020)

**Sec. 8-309. Penalty.** Violation of the provisions of this Chapter or failure to comply with any of its requirements shall constitute a misdemeanor and upon conviction thereof shall be punishable by a fine as provided in Title 18 of this Code. Each day on which a violation occurs or is allowed to remain shall constitute a separate offense.

(Amended: Ordinance No. 952 August 3, 2020)

## Chapter 4

### NUISANCES

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**Sec. 8-401. Nuisance defined.**

**A.** A nuisance is unlawfully doing an act, or omitting to perform a duty, or is any thing or condition which either:

1. Unreasonably annoys, injures or endangers the comfort, repose, health or safety of others;
2. Offends decency;
3. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake or navigable river, stream, canal or basin, or any public park, square, street or other public property; or
4. In any way renders other persons insecure in life or in the use of property.

**B.** A public nuisance is one which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.

**C.** Every nuisance not included in the preceding subsection is a private nuisance.

**Sec. 8-402. Persons responsible.** No person in charge or control of any property in the City, whether as owner, tenant occupant, lessee or otherwise, shall allow a nuisance to exist on the property. Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property, created by a former owner, is liable therefore in the same manner as the one who first created it.

**Sec. 8-403. Time does not legalize.** No lapse of time can legalize a public nuisance amounting to an actual obstruction of public right.

**Sec. 8-404. Remedies against public nuisances.** The remedies against a public nuisance are:

1. Prosecution on complaint before the municipal court;
2. Prosecution on information or indictment before another appropriate court;
3. Civil action; or
4. Abatement:
  - a. By person injured as provided in Section 12 of Title 50 of the Oklahoma Statutes; or
  - b. By the City in accordance with law or ordinance.

**Sec. 8-405. Remedies against private nuisances.** The remedies against a private nuisance are:

1. Civil action; or
2. Abatement:
  - a. By person injured as provided in Section 12 of Title 50 of the Oklahoma Statutes; or
  - b. By the City in accordance with law or ordinance.

**Sec. 8-406. Power to define and summarily abate nuisances.** As provided in Section 16 of Title 50 of the Oklahoma Statutes, the City has the power to determine what is and what shall constitute a nuisance within its corporate limits and, for the protection of the public health, the public parks, and the public water supply, outside of its corporate limits. Whenever it is practical to do so, the City has the power summarily to abate any such nuisance after notice to the owner and an opportunity for him to be heard, if this can be done.

**Sec. 8-407. Certain public nuisances defined.** In addition to other public nuisances declared by other sections of this code or law, the following are hereby declared to be public nuisances:

1. The sale, or offering for sale, of unwholesome food or drink; or the keeping of place where such sales or offerings are made;
2. The sale, offering for sale, or furnishing of intoxicating liquor in violation of the state law or ordinances of the City; or keeping of a place where intoxicating liquor is sold, offered for sale, or furnished in violation of the state law or ordinances of the City;
3. The exposure, display, sale, or distribution of obscene pictures, books, pamphlets, magazines, papers, documents or objects; or the keeping of a place where such are exposed, displayed, sold or distributed;
4. The keeping of a place where persons gamble, whether by cards, slot machines, punchboards or otherwise;
5. The keeping of a place where prostitution, illicit sexual intercourse, or other immoral acts are practiced;
6. The keeping of a place where activities in violation of state law or ordinance are practiced or carried on;
7. The conduct or holding of public dances in violation of the ordinances of the City; or the keeping of a place where such dances are held;
8. The public exposure of a person having a contagious disease;
9. The continued making of loud or unusual noises which annoy persons of ordinary sensibilities; or the keeping of an animal which makes such noises;
10. The operation or use of any electrical apparatus or machine which materially or unduly interferes with radio or television reception by others;
11. Any use of a street or sidewalk or a place adjacent thereto which causes crowds of people to gather so as to obstruct traffic on such street or sidewalk, or which otherwise obstructs traffic thereon, except as may be authorized by law or ordinances;
12. Permitting water or other liquid to flow or fall, or ice or snow to fall, from any building or structure upon any street or sidewalk;
13. All wells, pools, cisterns, bodies or containers of water in which mosquitoes breed or are likely to breed, or which are so constructed, formed, conditioned, or situated as to endanger the public safety;
14. Rank weeds or grass, carcasses, accumulations of manure, refuse, or other things, which are, or are likely to be, breeding places for flies, mosquitoes, vermin, or disease germs; and the premises on which such exist;
15. Any building or structure which is dangerous to the public health or safety because of damage; decay or other condition;
16. Any pit, hold, or other thing which is so constructed, formed, conditioned or situated as to endanger the public safety;

17. Any fire or explosion hazard which endangers the public safety;
18. Any occupation or activity which endangers the public peace, health, morals, safety or welfare;
19. Any motor vehicle (whether in operating condition or not) or any trailer without current vehicle plate and current safety inspection sticker as required by law for vehicles used on the public highways, when stored or kept in a residence district;
20. Any stable or other place where animals are kept that may become obnoxious or annoying to any resident of this city, by reason of any noise or noises made by the animal therein, or by reason of lack of sanitation, is hereby declared to be a nuisance; and
21. Every building or other structure that shall become unsafe and dangerous from fire, decay or other cause, or shall become hazardous from fire, by reason of age, decay or construction, location or other cause, or shall be detrimental to the health, safety or welfare of this city or its inhabitants from any cause, is hereby declared to be a nuisance. The above enumeration of certain public nuisances shall be cumulative and not limit other provisions of law or ordinances defining public nuisances either in more general or more specific terms.

**Sec. 8-408. Summary abatement of nuisances.**

**A.** Some nuisances are of such nature as to constitute a grave and immediate danger to the peace, health, safety, morals or welfare of one or more persons or of the public generally. It is recognized that circumstances may be such as to justify, and even to require the mayor or other appropriate officer or agency of the city government to take immediate and proper action summarily to abate such nuisances, or to reduce or suspend the danger until more deliberate action can be taken toward such abatement.

**B.** Any resident may submit through or with the consent of the Mayor to the code enforcement officer, a statement as to the existence of a nuisance as defined by the ordinances of the city or law, and a request or recommendation that it be abated.

**C.** Upon receiving the complaint or observing the nuisance himself, the code enforcement officer shall investigate the alleged nuisance. If he determines that a public nuisance exists, he will notify the person responsible for the nuisance. Such notice to the owner and other persons concerned shall be given in writing, by mail or by service by a police officer if their names and addresses are known; but, if the names and addresses are not known, and the public peace, health, safety, morals, or welfare would not be unduly jeopardized by the necessary delay, a notice of the hearing shall be published in a paper of general circulation within the City. Such notice shall provide not less than ten (10) days nor more than sixty (60) days, at the discretion of the Mayor or his designee, in which to abate such nuisance or to request a hearing as hereinafter set forth.

**D.** If the person receiving the abatement notice wishes a hearing, he must request it in writing within ten (10) days and mail or file it with the City Clerk. The hearing on his request will be before the Mayor and will be held as soon as possible after the request is filed. The Mayor shall render his decision by written memorandum and file the same with the City Clerk, who shall thereupon mail a copy to the person or persons requesting the hearing at the last known mailing address.

**E.** If the person responsible for a nuisance wishes to appeal the Mayor's decision, he may request a hearing before the Council. Such request must be in writing and submitted to the city clerk within five (5) days after notice of the decision of the Mayor is mailed to him.

**F.** The Council shall determine whether or not the alleged nuisance is a nuisance in fact. For the purpose of gathering evidence on the subject, the Council shall have power to subpoena and examine witnesses, books, papers and other effects.

**G.** If the Council finds that a nuisance exists, it shall direct the owner or other persons responsible for or causing the nuisance to abate it within a specified time if the peace, health, safety, morals or welfare of the person or persons or public adversely affected would not be unduly jeopardized by the consequent delay. If such peace, health, safety, morals, or welfare would be unduly jeopardized

by the consequent delay, or if the owner or other persons responsible for or causing the nuisance do not abate it within the specified time, the council shall direct the mayor to abate the nuisance or to have it abated, if summary abatement is practical, as authorized by Section 16 of Title 50 of the Oklahoma Statutes. The City Clerk shall send a statement of the cost of such summary abatement to the owner or other persons responsible for or causing the nuisance, as may be just under the circumstances, if the names and addresses are known. Until paid, such cost shall constitute a debt to the City, collectible as other debts of the City may be collected.

**Sec. 8-409. Abatement by suit in district court.** In cases where it is deemed impractical summarily to abate a nuisance, the City may bring suit in the district court of the county where the nuisance is located, as provided in Section 17 of Title 50 of the Oklahoma Statutes.

**Sec. 8-410. Cost of abatement.** If the person responsible for the nuisance is unable to pay for its removal, the work may be done by the employees of this City under supervision of the Mayor or his designee, or it may be let by contract, after appropriate notice, in the manner for letting other contracts.

**Sec. 8-411. Cost to be determined, statement of cost to be sent.** Upon completion of the work ordered to be performed under this Chapter, the City Clerk shall prepare a report on the cost thereof. Such report shall be itemized as to each tract, as follows:

1. labor;
2. machinery rental or depreciation;
3. fuel and supplies;
4. cost of notice; and
5. other costs.

The mayor shall determine the total actual costs of the work, and shall direct the City Clerk to forward a statement and demand payment thereof by certified mail with return receipt requested to the owner of the property at the address shown by the current tax rolls in the office of the County Treasurer. If the statement is not paid within twenty (20) days after such statement is mailed, the Council may direct the City Attorney to institute action to establish a lien against the property on which such work was done and to request the court to cause such property to be sold and the lien paid.

**Sec. 8-412. Failure to pay costs, costs to be certified to County Treasurer.** In the event the City does not elect to proceed by legal action as set forth herein, then six (6) months from the date of mailing the notice prescribed in the preceding section, the City Clerk shall forward a certified statement of the amount of such costs to the County Treasurer, to be levied upon the property and to be collected by the County Treasurer in the manner prescribed for ad valorem taxes by the laws of this state.

**Sec. 8-413. Nuisance unlawful.** It is unlawful for any person, including but not limited to any owner, lessee, or other person to create or maintain a nuisance within the City, or to permit a nuisance to remain on premises under his control within the City.

**Sec. 8-414. Damages and prosecution for public offense.** The fact that the City has abated and removed a nuisance shall in no way excuse the party responsible therefore from any damages which may have resulted prior thereto. Neither shall the order of abatement prevent the Marshall or other person from filing a complaint where the nuisance constitutes a public offense. The Marshall may file complaint in each and every instance where the nuisance amounts to a public offense, and the person responsible therefore shall be prosecuted on such complaint; on determination of guilt, he shall be punished as provided for punishment of public offenses.

**Sec. 8-415. Health nuisances; abatement.**

**A.** Pursuant to authority granted by Section 1-1011 of Title 63 of the Oklahoma Statutes, the health officer shall have authority to order the owner or occupant of any private premises in the City to remove from such premises, at the owner's expense, any source of filth, cause of sickness, condition conducive to the breeding of insects or rodents that might contribute to the transmission of disease, or any other condition adversely affecting the public health, within twenty-four (24) hours, or within

such other time as may be reasonable, and a failure to do so shall constitute an offense. Such order shall be in writing and may be served personally on the owner or occupant of the premises, or authorized agent thereof, by the health officer or by a police officer, or a copy thereof may be left at the last usual place of abode of the owner, occupant, or agent, if known and within the state. If the premises are unoccupied and the residence of the owner, occupant, or agent is unknown, or is without the state, the order may be served by posting a copy thereof on the premises, or by publication in at least one issue of a newspaper having general circulation in the City.

**B.** If the order is not complied with, the health officer may cause the order to be executed and complied with, and the cost thereof shall be certified to the City Clerk, and the cost of removing or abating such nuisance shall be added to the utility bill of the owner or occupant if he is a user of utilities from the City. If such owner or occupant is not a user of any city utility service, such cost, after certification to the City Clerk, may be collected in any manner in which any other debt due the city may be collected.

**Sec. 8-416. Toilet facilities required; nuisance.**

**A.** For the purpose of this section, the following terms shall have the respective meanings ascribed to them herein:

1. "Human excrement" means the bowel and kidney discharge of human beings;
2. "Sanitary water closet" means the flush type toilet which is connected with a sanitary sewer line of such capacity and construction as to carry away the contents at all times; and
3. "Sanitary pit privy" means a privy which is built, rebuilt, or constructed so as to conform with the specification approved by the State Health Department.

**B.** Every owner of a residence or other building in which humans reside, are employed, or congregate within this City shall install, equip, and maintain adequate sanitary facilities for the disposal of human excrement by use of a sanitary water closet. The closets and toilets hereby required shall be of the sanitary water closet type when located within two hundred (200) feet of a sanitary sewer and accessible thereto, and of the sanitary water closet type (notwithstanding a greater distance from a sanitary sewer) or the water closet type emptying into a septic tank system. A septic tank system or a pit privy may be used in such cases only if it meets the standards of and is approved by the State Health Department.

**C.** All human excrement disposed of within this City shall be disposed of by depositing it in closets of the type provided for in this section. It is unlawful for any owner of property within the City to permit the disposal of human excrement thereon in any other manner, or for any person to dispose of human excrement within the City in any other manner.

**D.** Any privy shall be kept clean and sanitary at all times, and the covers of the seats of privies shall be kept closed at all times when the privies are not being used. No wash water, kitchen slop, or anything other than human excrement and toilet paper shall be emptied into a privy. No excrement from any person suffering from typhoid fever, dysentery, or other serious bowel disease shall be deposited in any sanitary water closet until it is disinfected in such a manner as may be prescribed by the health officer.

**E.** All facilities for the disposal of human excrement in a manner different from that required by this section, and all privies and closets to constructed, situated, or maintained as to endanger the public health, are hereby declared to be public nuisances, and may be dealt with and abated as such. Any person maintaining any such nuisance is guilty of an offense, and each day upon which any such nuisance continues is a separate offense.

**Sec. 8-417. Junk yards, abatement.**

**A.** Motor vehicle wrecking and salvage yards, and junk yards, and storage yards, hereinafter referred to as "junk yards" are hereby declared a public nuisance.



**B.** The Mayor, by and through the agents and employees of the City, may cause the property, including “other junk, rubbish and refuse”, to be removed from junk yard premises, and transported to, and dumped on the dumping grounds of the City.

**C.** Anyone interfering with or obstructing, in any way, such removal or transporting or dumping shall be deemed guilty of an offense.

**D.** Any person who shall operate or maintain junk yards, or any part of any of them, or keep, store or pile property on junk yard premises, or any portion or part thereof, shall be deemed guilty of an offense. Every day of such operation or maintenance, or such keeping, storing or piling of property, shall constitute a separate offense.

**E.** Any owner, lessee or occupant of junk yard premises, or any portion or part thereof, who shall permit, consent to or acquiesce in the operation or maintenance of junk yards, or any of them, or any part of any of them, or the keeping, storing or piling of property on junk yard premises, or part or portion thereof, of which he is the owner, lessee or occupant, shall be deemed guilty of an offense. Every day of such permission, consent or acquiescence shall constitute a separate offense.

**Sec. 8-418. Procedure cumulative.** The various procedures for abating nuisances prescribed by this Chapter and by other provisions of law and ordinance shall be cumulative on the any other penalties or procedures authorized.

**Sec. 8-419. Penalty.** Any person, firm or corporation who violates any of the provisions of this chapter or shall allow the premises occupied to become unsanitary, or who shall in any manner violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in this Code.

## Chapter 5

### ENFORCEMENT AND PENALTY

Sec. 8-501.	County health department designated to enforce health ordinances.	8.13
Sec. 8-502.	Obstructing health officer. . . . .	8.13
Sec. 8-503.	Quarantine; violations. . . . .	8.13
Sec. 8-504.	Penalty. . . . .	8.13

**Sec. 8-501. County health department designated to enforce health ordinances.** Anywhere in this Chapter where the word or words “health officer” are used it may be construed to mean the director of the county health department or his duly designated representative unless another person is designated by the Mayor. It is the intent and purpose of the Mayor and Council to delegate the enforcement of the health ordinances of this City as set out in this Chapter and any such decisions rendered under this section shall be subject to review by the Council upon an appeal from an offender.

**Sec. 8-502. Obstructing health officer.** It is unlawful for any person to willfully obstruct or interfere with any health officer or officer charged with the enforcement of the health laws of this City.

**Sec. 8-503. Quarantine; violations.** It is unlawful for any person to willfully violate or refuse or omit to comply with any lawful order, direction, prohibition, rule or regulation of the board of health or any officer charged with enforcement of such order, direction, prohibition, rule or regulation.

**Sec. 8-504. Penalty.** Any person who violates any provision of this Chapter or any law or code adopted by reference in this Chapter is guilty of an offense, and upon conviction thereof, shall be punished as provided in this Code. In addition thereto, such person may be enjoined from continuing such violations.

## Chapter 6

### DILAPIDATED BUILDINGS

Sec. 8-601.	Report to be made, council consideration. . . . .	8.14
Sec. 8-602.	Condemnation of dilapidated buildings, notice, removal, lien. . . .	8.14
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#### **Sec. 8-601. Report to be made, council consideration.**

**A.** Any officer or employee of this City who discovers or receives a report of a dilapidated building which has become detrimental to the health, benefit and welfare of the public and the community or creates a fire hazard to the danger of property, shall report such conditions to the building official.

**B.** Upon receiving the report prescribed by the preceding subsection or upon receipt of equivalent information from any reliable source, the building official shall request that the Mayor place upon the agenda of the Council for hearing and consideration at any appropriate date of meeting thereof, such as will permit giving the notices prescribed by statutory law, the question whether such premises, by reason of the dilapidated condition and the building or buildings are detrimental to the health, benefit and welfare of the public and the community, or creates a fire hazard to the danger of property.

**Sec. 8-602. Condemnation of dilapidated buildings, notice, removal, lien.** The Council may cause dilapidated buildings within the City to be torn down and removed in accordance with the following procedure:

**1.** At least ten (10) days notice shall be given to the owner of the property before the council holds a hearing. Notice shall be given by posting on the property and by mail to the property owner at the address shown by the current year's tax rolls in the County Treasurer's office. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the County Clerk to the last-known address of the mortgagee. If neither the property owner nor mortgage holder can be located, notice may be given by posting a copy on the property or by publication in a newspaper of general circulation one time not less than ten (10) days prior to the hearing. At the time of mailing of notice to any property owner or mortgage holder, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer;

**2.** A hearing shall be held by the Council to determine whether the property is dilapidated and has thereby become detrimental to the health, benefit and welfare of the public and the community, or creates a fire hazard to the danger of the property;

**3.** Upon a finding that the condition of the property constitutes a detriment or a hazard, and that the property would be benefited by the removal of such conditions, the Council may cause the dilapidated building to be torn down and removed, and shall fix reasonable dates for the commencement and completion of the work. The Clerk shall immediately file a notice of dilapidation and lien with the County Clerk describing the property, the findings of the city at the hearing, and other requirements provided by law. The agents of the City are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the City if the work is not performed by the property owner within dates fixed by the Council. Neither the City nor its officers or employees are liable for damages or loss of property due to the removal of a dilapidated building pursuant to this section;

**4.** The Council shall determine the actual cost of the dismantling and removal of dilapidated buildings, and any other expenses as may be necessary in conjunction therewith, including the cost of notice and mailing. The City Clerk shall forward a statement of such actual cost and a demand

for payment by mail to the property owner, and by mailing a copy to any mortgage holder, at the addresses named in paragraph 1 of this section. At the time of mailing of the statement of costs to any property owner or mortgage holder, the City shall obtain a receipt of mailing from the postal service which receipt shall indicate the date of mailing and the name and address of the mailer. If dismantling and removal of dilapidated buildings is done by the City, the cost to the property owner shall not exceed the actual cost of the labor, maintenance and equipment required for dismantling and removal of dilapidated buildings. If dismantling and removal of dilapidated buildings is done on a private contract basis, it shall be awarded to the lowest and best bidder;

5. If payment is not made within six (6) months from the date of the mailing of the statement, the City Clerk shall forward a certified statement of the amount of the cost to the County Treasurer and the same shall be levied on the property and collected by the County Treasurer as other taxes authorized by law. Until finally paid, the costs and interest thereon shall be the personal obligation of the property owner and the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the County Treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid;

6. At any time prior to collection as provided for in this paragraph, the City may pursue any civil remedy for collection of the amount owing and interest thereon including an action *in personam* against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the City Clerk shall forward to the County Treasurer a notice of such payment and shall direct discharge of the lien;

7. The Council hereby designates the City Superintendent or his designee to perform the duties of the council under this section; and

8. For the purposes of this Chapter, "dilapidated building" means a structure where because of the neglect of necessary repairs or allowing it to fall into a state of decay or allowing it to fall into partial ruin to such an extent that said structure is a hazard to the health or safety or welfare of the general public. It does not include any property zoned and used for agricultural purposes.

#### **Sec. 8-603. Boarding, securing dilapidated buildings.**

A. After a building has been declared dilapidated, as provided in this code, and before the commencement of the tearing and removal of a dilapidated building, the City may authorize that such a building be boarded and secured.

B. The City may cause the premises on which an unsecured building is located to be cleaned of trash and weeds in accordance with the provisions of this Code.

C. The City may cause an unsecured building to be boarded and secured in accordance with the following procedures:

1. Before the Council orders such action, at least ten (10) days notice that such unsecured building is to be boarded and secured shall be given by mail to any property owners and mortgage holders as provided in this Code. At the time of mailing of notice to any property owner or mortgage holder, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer. A copy of the notice shall also be posted on the property to be affected. However, if neither the property owner nor mortgage holder can be located, notice may be given by posting a copy of the notice on the property or by publication as defined by law. Such notice shall be published one time, not less than ten (10) days prior to any hearing or action by the City pursuant to the provisions of this section. If the City anticipates summary abatement of a nuisance in accordance with the provisions of this section, the notice shall state:

- a. That any subsequent need for boarding and securing the building within a six-month period after the initial boarding and securing of the building pursuant to such notice may be summarily boarded and secured by the City;
  - b. That the costs of such boarding and securing shall be assessed against the owner; and
  - c. That a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner or mortgage holder;
2. The owner of the property may give his written consent to the City authorizing the boarding and securing of such unsecured building and to the payment of any costs incurred thereby. By giving written consent, the owner waives his right to a hearing by the City;
3. If the property owner does not give his written consent to such actions, a hearing may be held by the Council to determine whether the boarding and securing of such unsecured building would promote and benefit the public health, safety or welfare. Such hearing may be held in conjunction with a hearing on the accumulation of trash or the growth of weeds or grass on the premises of such unsecured building held pursuant to the provisions of this Title. In making such determination, the City shall apply the following standard:
  - a. Whether the boarding and securing thereof would make such building less available for transient occupation;
  - b. Whether the boarding and securing thereof would decrease a fire hazard created by such building; or
  - c. Whether the boarding and securing thereof would decrease the hazard that such building would constitute an attractive nuisance to children.

Upon making the required determination, the city may order the boarding and securing of the unsecured building;

4. After the City orders the boarding and securing of such unsecured building, the Clerk shall immediately file a notice of unsecured building and lien with the County Clerk describing the property, stating the findings of the city at the hearing at which such building was determined to be unsecured, and stating that the City claims a lien on the property for the costs of boarding and securing such building and that such costs are the personal obligation of the property owner from and after the date of filing the notice;
5. Pursuant to the order of the City, the agents of the City are granted the right of entry on the property for the performance of the boarding and securing of such building and for the performance of all necessary duties as a governmental function of the City;
6. After an unsecured building has been boarded and secured, the Council shall determine the actual costs of such actions and any other expenses that may be necessary in conjunction therewith including the cost of the notice and mailing. The Clerk shall forward a statement of the actual costs attributable to the boarding and securing of the unsecured building and a demand for payment of such costs, by mail to any property owners and mortgage holders as provided in this Chapter. At the time of mailing of the statement of costs to any property owner or mortgage holder, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer;
7. If the City boards and secures any unsecured building, the cost to the property owner shall not exceed the actual cost of the labor, materials and equipment required for the performance of such actions. If such actions are done on a private contract basis, the contract shall be awarded to the lowest and best bidder;
8. When payment is made to the City for costs incurred, the Clerk shall file a release of lien, but if payment attributable to the actual costs of the boarding and securing of the unsecured building is not made within thirty (30) days from the date of the mailing of the statement to the owner of such property, the Clerk shall forward a certified statement of the amount of

the costs to the County Treasurer. The costs shall be levied on the property and collected by the County Treasurer as are other taxes authorized by law. Until fully paid, the costs and the interest thereon shall be the personal obligation of the property owner from and after the date the notice of unsecured building and lien is filed with the County Clerk. In addition the costs and the interest thereon shall be a lien against the property from the date then notice of the lien is filed with the County Clerk. The lien shall be coequal with the lien of ad valorem taxes and all other taxes and special assessments and shall be prior and superior to all other titles and liens against the property. The lien shall continue until the cost and interest are fully paid. At any time prior to collection as provided for in this paragraph, the City may pursue any civil remedy for collection of the amount owing and interest thereon including an action *in personam* against the property owner and an action in rem to foreclose its lien against the property. A mineral interest if severed from the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, the City Clerk shall forward to the county treasurer a notice of such payment and shall direct discharge of the lien;

**9.** The City hereby designates the City Superintendent or his appointee to carry out the duties of the Council specified in this section. The property owner or mortgage holder shall have a right of appeal to the Council from any order of the City Superintendent or his appointee. Such appeal shall be taken by filing written notice of appeal with the Clerk within ten (10) days after the administrative order is rendered;

**10.** If the City causes a structure within the city to be boarded and secured, any subsequent need for boarding and securing within a six-month period constitutes a public nuisance and may be summarily boarded and secured without further prior notice to the property owner or mortgage holder. At the time of each such summary boarding and securing, the city shall notify the property owner and mortgage holder of the boarding and securing and the costs thereof. The notice shall state that the property owner may request an appeal with the clerk within ten (10) days after the mailing of the notice. The notice and hearing shall be as provided for in this section. Unless otherwise determined at the hearing the cost of such boarding and securing shall be determined and collected as provided for in this section;

**11.** The City may determine that a building is unsecured and order that such building be boarded and secured in the manner provided for in this subsection even though such building has not been declared, by the City, to be dilapidated; and

**12.** For the purposes of this subsection:

- a.** "Boarding and securing" or "boarded and secured" means the closing, boarding or locking of any or all exterior openings so as to prevent entry into the structure, and
- b.** "Unsecured building" means any structure which is not occupied by a legal or equitable owner thereof, or by a lessee of a legal or equitable owner, and into which there are one or more unsecured openings such as broken windows, unlocked windows, broken doors, unlocked doors, holes in exterior walls, holes in the roof, broken basement or cellar hatchways, unlocked basement or cellar hatchways or other similar unsecured openings which would facilitate an unauthorized entry into the structure. It does not include any property zoned and used for agricultural purposes.

**Sec. 8-604. Clearing of premises.** The owner or owners of the lot or lots upon which is located a demolished house or building and the person, firm, or corporation who demolished the house or building shall immediately:

- 1.** Remove all trash, lumber, brick, concrete, cement, plaster, nails, wire, and other material;
- 2.** Fill any cellar space and excavations;
- 3.** Fill or safely and securely close all openings for any cistern, well, and sanitary sewers to meet the requirements of the City plumbing inspector; and
- 4.** Level the lot or lots.

**Sec. 8-605. Permit.** Any person who shall tear down or begin the tearing down of any house or building within the City shall first procure a permit therefore.

# Title 9

## LICENSING AND BUSINESS REGULATIONS

### Chapter 1

#### OCCUPATIONAL LICENSES GENERALLY

Sec. 9-101.	Definitions. . . . .	9.1
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**Sec. 9-101. Definitions.** The following words, terms and phrases, and their derivations, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. “Business” shall mean an occupation, profession, trade or service, or the purchase and sale of goods in an effort to make a profit.
2. “Peddler” shall mean any person who travels by foot or by any type of conveyance from place to place, from house to house, or from street to street carrying, conveying or transporting goods, wares or merchandise of whatsoever nature, offering and exposing the same for sale, or who, without traveling from place to place, shall sell or offer the same for sale from any vehicle or conveyance or on any public street or thoroughfare.
3. “Solicitor or canvasser” shall mean any person who travels by foot or by any type of conveyance from place to place, from house to house or from street to street, taking or attempting to take orders for the sale of goods, wares, merchandise or personal property of whatsoever nature for future delivery or for services to be furnished or performed in the future.

**Sec. 9-102. Permit or license required.** It shall be unlawful for any person or persons to engage in business, except as expressly excluded by this code, without first obtaining a permit or license therefore and paying the prescribed fee or fees as established this chapter.

**Sec. 9-103. Persons excluded from this Chapter.** The following persons are hereby specifically excluded from the application of the provisions of this Chapter:

1. Persons engaged in selling personal property at wholesale to dealers in such property.
2. Merchants having regular places of business in the City, and their employees, in taking orders at the houses of their customers for goods held in stock at the places of business, and in delivering the goods so ordered.
3. Newsboys selling newspapers.
4. Milk deliverymen operating in compliance with the provisions of this code relating to milk and food handling.

5. Schools or other nonprofit organizations.
6. Rental of single-family residences.
7. Permit or license holders specifically provided in other Chapters of this Code, in order to prevent a requirement of a duplicate permit or license.
8. Persons under eighteen (18), or students, who do lawn care for a fee.

**Sec. 9-104. Application for permit or license.**

A. Applicants for a permit or license hereunder shall file with the City Clerk in duplicate a sworn application in writing on a form to be furnished by the City Clerk.

B. The application shall contain the following information:

1. Name and brief description of applicant;
2. Address, both permanent and local;
3. Nature of business and kinds of goods to be sold, and if applicant is a farmer or truck gardener, whether the goods are produced by him on lands he owns, cultivates and controls;
4. If employed by another, the name and address of applicant's employer together with a brief description of credentials showing the exact relationship;
5. Length of time for which the right to do business is desired; and
6. Description and license number or other identification of any vehicle to be used.

**Sec. 9-105. Investigation of applicant and issuance of permit or license.**

A. Upon receipt of an application for permit or license, the City Clerk shall refer copies thereof to the Marshall who shall note thereon any record concerning applicant which may appear from the official records in his charge and return the same promptly to the City Clerk.

B. The City Clerk shall cause such other investigation or inquiry to be made concerning application as he may deem necessary to determine the character and business responsibility of applicant and whether his application is in compliance with the terms and conditions of this Chapter.

C. If, as a result of the investigation, the character and business responsibility of applicant are found to be satisfactory and application is in compliance with the terms and conditions of this Chapter, the City Clerk, upon payment of the prescribed permit or license fee, shall issue the permit or license.

**Sec. 9-106. Transfer of license prohibited.** No license issued under the provisions of this chapter shall be used at any time by any person other than the one to whom it was issued.

**Sec. 9-107. Exhibition of license.** Peddlers, solicitors and canvassers shall exhibit their licenses at the request of any citizen.

**Sec. 9-108. Permit and license fees.** A fee for the permit and license required by this Chapter shall be established by resolution from time to time by the Council and maintained on a schedule of fees.

**Sec. 9-109. Minimum age of applicant.**

A. No license shall be issued under this Chapter to any person under the age of sixteen (16) years.

B. No licensee under this chapter shall employ, apprentice, engage, or suffer, cause or allow any minor under the age of sixteen (16) years to be employed, apprenticed or engaged, either as a helper or solicitor in connection with the business licensed under this chapter.

**Sec. 9-110. Door to door solicitations.** Excepted as specifically excluded by this Chapter, it shall be unlawful for any peddler, solicitor, or canvasser to go in or upon the premises of any private residence or commercial establishment upon which there is prominently displayed a "No Solicitors", "No Trespassing", or similar notice without the express consent, request or invitation of the owner or



the occupant of such premises for the purpose of engaging in any business for which a permit or license is required by this Chapter.

**Sec. 9-111. Hours.** It shall be unlawful for any peddlers, solicitors, or canvassers or any other person to go from house to house or door to door for the purpose of engaging in any business for which a permit or license is required by this Chapter between sunset and 9:00 a.m. the following day.

## Chapter 2

### GARAGE SALES

Sec. 9-201.	Garage sale defined. . . . .	9.3
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Sec. 9-203.	License fee. . . . .	9.3
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Sec. 9-205.	Maximum number of days, sales per year. . . . .	9.3

**Sec. 9-201. Garage sale defined.** For the purpose of this Chapter the term “garage sale” shall be defined as the offering of merchandise for sale by an individual or group of individuals from a residence, yard, garage or porch in any area within the City, other than commercially zoned areas.

**Sec. 9-202. License required.** A license must be obtained prior to conducting any garage sales within the City. Licenses may be obtained from the City clerk and shall contain the date of issue, date of the garage sale, the name of the person or group conducting the garage sale and the street address of the sale.

**Sec. 9-203. License fee.** There be no fee for the license required by the preceding section.

**Sec. 9-204. Display of license.** The license shall be displayed on the premises during the garage sale.

**Sec. 9-205. Maximum number of days, sales per year.** No single garage sale shall be licensed for more than three (3) consecutive days and no more than four (4) licenses shall be issued annually to any person or group.

## Chapter 3

### AMBULANCE SERVICE

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**Sec. 9-301. Sole provider system established.** Pursuant to Section 1-2515 of Title 63 of the Oklahoma Statutes, there is hereby established within the corporate limits of the City of Wagoner, Oklahoma, a sole-provider system for stretcher aid van and ambulance service transports.

**Sec. 9-302. Provider designated.** The sole-provider for stretcher aid van and ambulance service within the corporate limits of the City of Wagoner, Oklahoma, shall be City of Wagoner, Oklahoma.

## Chapter 4

### HOSPITAL AND AMBULATORY SURGICAL CARE FACILITIES

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**Sec. 9-401. Definitions.**

**A.** As used in this Chapter “hospital” means any institution, place, building or agency, public or private whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care of patients admitted for overnight stay or longer in order to obtain medical care, surgical care, obstetrical care, or nursing care for illness, disease, injury, infirmity, or deformity. All places where pregnant females are admitted and receive care incident to pregnancy or delivery shall be considered to be a hospital within the meaning of this Ordinance, regardless of the number of patients received or the duration of their stay. The term “hospital” includes general medical surgical hospitals, specialized hospitals, critical access and emergency hospitals, and birthing centers. As used in this Chapter, the word “hospital” does not include a long-term care facility where the average patient stay is greater than twenty-five (25) days and no operating suite and no public emergency room treatment is available.

**B.** As used in this Chapter, “ambulatory surgical care facility” means an establishment licensed by the State as an ambulatory surgical care facility with an organized medical staff of physicians, with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures, with continuous physician services available on call, and registered professional nurse services on site, whenever a patient is in the facility, which provides services or other accommodations for patients to recover for a period not to exceed twenty-three (23) hours after surgery.

**Sec. 9-402. Application and Permit for Hospital Facility.**

**A.** No new hospital shall be developed, either through construction or conversion of existing space, in the City unless a permit therefore has been issued by the City Clerk.

**B.** Before developing a facility for use as a newly licensed hospital, the person proposing to operate the hospital shall apply to the City Clerk for a permit for the facility in addition to any other required approvals. The application for a permit shall be in such form as the City Clerk shall prescribe and shall include a demonstration of the hospital’s probable impact on existing hospital and surgical services in the City, including permitted facilities not yet completed.

**C.** The application for a permit shall be accompanied by a filing fee equal to one percent (1%) of the capital cost of the proposed hospital, with a minimum fee of one thousand dollars (\$1,000.00) and a maximum fee chargeable hereunder of seventy-five thousand dollars (\$75,000.00). It is intended that the fee charged herein shall be used to cover the costs of the application evaluation. Any excess of fees collected over costs incurred over one thousand dollars (\$1,000.00) but less than seventy-five thousand dollars (\$75,000.00) shall be refunded to the applicant.

**D.** Within thirty (30) days after receiving a completed application for a permit, the City Clerk shall cause a paid public notice to be published in a newspaper of general circulation in the area where the hospital is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and proposed location of the facility, a brief description of the proposal, information on where the original application can be viewed, and an explanation of how parties may file materials to be considered along with the application.

**E.** Any person may submit written evidence and argument regarding the proposed hospital to the City Clerk to be reviewed by the City Council. Written materials shall be submitted to the City Clerk within thirty (30) days after publication of the paid notice. The applicant shall have forty-five (45) days after publication of the paid notice to respond in writing to materials timely filed by other persons.

**F.** No permit to establish a hospital shall be issued by the City Clerk unless, after reviewing the application and timely filed written materials and responses, the City Council makes the following findings:

1. The proposed hospital will contribute to the orderly development of hospital and surgical services in the City;
2. The proposed hospital will not cause an undue financial or staffing hardship on any existing provider of essential hospital or surgical services in the City, including permitted facilities not yet completed;
3. The proposed hospital can be adequately served by the City's existing utility systems and/or infrastructure;
4. The proposed hospital will qualify for and enter into a participating hospital provider agreement with the federal Medicare program and Oklahoma Medicaid program;
5. The proposed hospital will qualify for and maintain a license to operate a hospital from the State Commissioner of Health;
6. The proposed hospital will operate and staff an emergency department where emergency services will be available to all without regard to race, sex, national origin, religious affiliation, insurance status or ability to pay on a twenty-four-hour per day, three hundred sixty-five-day per year basis;
7. The ownership structure of the proposed hospital complies with all federal and state laws and regulations, including but not limited to the STARK law and federal anti-kick back provisions, and, if there are physicians who directly or indirectly hold investment interests in the proposed hospital, with principles or medical ethics applicable to physician ownership in healthcare facilities, including but not limited to Judicial Council Opinion 8.032 of the American Medical Association; and
8. The proposed hospital will fulfill a demonstrated need in the community for the hospital and its development is in the best interest of the health and welfare of the community.

**G.** The City Clerk shall schedule the application for a permit for consideration by the City Council within one hundred twenty (120) days after publication of the paid notice. A permit shall be effective for thirty-six (36) months from the date of issue, during which time an applicant shall start construction or conversion work on the hospital. If construction or conversion work is not started within the time required by this section, the permit shall be null and void.

**H.** The City Council may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this section.

**I.** Should an objection be filed by any interested party or governmental entity to the granting of a permit under this section, the City Clerk shall schedule a hearing before an administrative law judge appointed by the City Council within one hundred twenty (120) days after the publication of the paid notice. Any person or governmental entity aggrieved by the decision of the administrative law judge may appeal said decision by filing an action in the district court within thirty (30) days from the issuance of the decision by the administrative law judge. Permits shall not be effective until or unless all appeals permitted by this subsection have been exhausted or resolved.

**Sec. 9-403. Application and Permit for Ambulatory Surgical Care Facilities.**

**A.** No new ambulatory surgical care facility shall be developed, either through construction or conversion of existing space, in the City unless a permit therefore has been issued by the City Clerk.

**B.** Before developing a facility for use as a newly licensed ambulatory surgical care facility, the person proposing to operate the ambulatory surgical care facility shall file a completed application with the City Clerk for a permit for the facility in addition to any other required approvals. The application for a permit shall be in such form as the City Council shall prescribe and shall provide an impact study including a demonstration of the ambulatory surgical care facility's probable impact on the existing surgical services in the City. All necessary studies shall be provided by the applicant.

**C.** The application for a permit shall be accompanied by a filing fee equal to one percent (1%) of

the capital cost of the proposed facility, with a minimum fee of one thousand dollars (\$1,000.00) and a maximum fee chargeable hereunder of twenty-five thousand dollars (\$25,000.00). It is intended that the fee charged herein shall be used to cover the costs of the application evaluation. Any excess of fees collected over costs incurred over one thousand dollars (\$1,000.00) but less than twenty-five thousand dollars (\$25,000.00) shall be refunded to the applicant.

**D.** Within thirty (30) days after receiving a completed application for a permit, the City Clerk shall cause a paid public notice to be published in a newspaper of general circulation in the area where the ambulatory surgical care facility is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and proposed location of the facility, a brief description of the proposal, information on where the original application can be viewed, and an explanation of how parties may file materials to be considered along with the application.

**E.** Any person may submit written evidence and argument regarding the proposed ambulatory surgical care facility to the City Clerk to be reviewed by City Council. Written materials shall be submitted to the City Clerk within thirty (30) days after publication of the paid notice. The applicant shall have forty-five (45) days after publication of the paid notice to respond in writing to materials timely filed by other persons.

**F.** No permit to establish an ambulatory surgical care facility shall be issued by the City Clerk unless, after reviewing the application and timely filed written materials and responses, the City Council makes the following findings:

1. The proposed ambulatory surgical care facility will fulfill a demonstrated need in the community for the facility and its development is in the best interest of the health and welfare of the community;
2. The proposed ambulatory surgical care facility will serve and be in the interest of the health and welfare of the community;
3. The proposed ambulatory surgical care facility can be adequately served by the City's existing utility systems and/or infrastructure;
4. The applicant must obtain and hold in good standing during its operation a transfer agreement with an accredited acute care facility within the corporate limits of the City of Wagoner;
5. Doctors practicing at the proposed center must be credentialed and on staff in good standing with an accredited acute care facility within the corporate limits of the City of Wagoner;
6. The ownership structure of the facility does not violate the federal anti-kickback statutes and Stark I and II; and
7. The applicant has obtained a license from the State Commissioner of Health as required by Title 63 of the Oklahoma Statutes.

**G.** Should an objection be filed by any interested party or governmental entity to the granting of said permit, the City Clerk shall schedule the application for hearing before an administrative law judge appointed by the City Council within one hundred twenty (120) days after publication of the paid notice. A permit shall be effective for thirty-six (36) months from the date of issue, during which time an applicant shall start construction or conversion work on the ambulatory surgical care facility. If construction or conversion work is not started within the time required by this section, the permit shall be null and void. Should construction or conversion work be completed within the thirty-six-month period as provided, then the permit shall remain valid so long as the center is in compliance with the state regulatory requirements and the requirements as set forth in this article.

**H.** Any person or governmental entity aggrieved by a decision of the administrative law judge shall appeal by filing an action in the district court within thirty (30) days from the issuance of the decision by the administrative law judge.

**I.** Upon the completed filing of all documents required herein, providing that no protests are filed during the protest period the City Council shall issue the permit administratively. This is subject to all other zoning, building, and code requirements being met.

**J.** The City Council may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this section.

## Chapter 5

### SPECIAL EVENTS

Sec. 9-501.	Definitions. . . . .	9.7
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#### **Sec. 9-501. Definitions.**

*Applicant* means a person who has filed a written application for a Special Event Permit.

*City* means the City of Wagoner, Oklahoma.

*City Park* means any property in the City designated as a park, playground, recreational facility, swimming pool or hike and bike path, and shall include buildings, parking lots and driveways in such areas.

*First Amendment Activity* means all expressive and associative activity on public streets that is protected by the United States and Oklahoma Constitutions, including speech, press, assembly and the right to petition, but does not include commercial advertising.

*First Amendment Event* means an event where the sole or principal object is First Amendment Activity.

*Parade* means any assembly, march, demonstration or procession upon public streets within the City including persons, animals, or vehicles that is reasonably likely to interfere with the normal flow or regulation of traffic. Permittee means the person to whom a Special Event Permit is granted pursuant to this Chapter.

*Person* means any individual, entity, association or organization.

*Seasonal Special Event* means an event that occurs in a specific season and is scheduled throughout the season on non-sequential days, using a single Special Event Permit.

*Special Event* means a temporary event, gathering or organized activity, including but not limited to Parades, bike races, marathons, walk-a-thons, fireworks displays, concerts, carnivals, other types of races and festivals, First Amendment Events, and Seasonal Special Events which involves one or more of the following activities:

- Closing a public street
- Blocking or restricting City-owned property
- Blocking or restricting access to City Parks unless otherwise authorize
- City Parks and Recreation Department;

- Sale of merchandise, food or beverages on City-owned property;
- Erection of a tent equal to or greater than two hundred (200) square feet area on City-owned property;
- Installation of a stage, band-shell, trailer, van, portable building, grand bleachers on City-owned property;
- Placement of portable toilets on City-owned property;
- Placement of temporary no-parking signs in a public right-of-way or owned property; or
- Placement of pedestrian boundary markers on City-owned property.

*Special Event Permit* means written authorization from the City Superintendent or designee to hold a Special Event.

*Special Event Rules and Regulations* means the guidelines, rules, regulations, policies and procedures developed and adopted administratively by the City Superintendent or designee for the health, safety and welfare of citizens and Special Event attendees. Special Event Rules and Regulations may include, but are not limited to the following: processes; procedures; cost recovery for public safety, sanitation and transportation personnel; safety regulations; resource requirements; and surety and insurance requirements.

(New: Ordinance No. 944 3/4/2019)

#### **Sec. 9-502. Permit Required.**

**A.** No Person shall hold a Special Event, sponsor a Special Event or cause a Special Event to be held without first having obtained a Special Event Permit from the City.

**B.** No Special Event Permit shall be denied nor shall the Applicant be given less favorable consideration as to time, manner, or place based upon:

1. race, color, creed, religion, gender, domestic relationship status, parental status, sexual orientation, transgender, gender identity or gender expression, national origin, or political affiliation of the Applicant and/or the participants of the Special Event;
2. the message of the Special Event, or the identity or associational relationships of the Applicant and/or participants; or
3. any assumption or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the Special Event, provided that reasonable accommodation as to time, manner, and place may be required in order for the City to provide the resources necessary for police, fire and emergency services to preserve and protect public health, safety and welfare.

**C.** A Special Event Permit is not required for:

1. An event conducted entirely on the property of a religious institution, educational institution, college or university campus. City streets or parking lots for multi-tenant buildings, regardless of location, shall not be considered part of a religious institution, educational institution, college or university campus;
2. Property owned or controlled by the City subject to a contract, lease, management/operating agreement with a private party where the agreement addresses events on the property or the event is included within the permitted uses in the agreement;
3. Processions of vehicles operated in compliance with ordinary traffic laws or a procession of pedestrians along or upon public sidewalks, public parks, or private property;
4. First Amendment Activity conducted entirely on sidewalks, in public parks or on private property; or
5. Events conducted under the supervision of or with the permission of a governmental entity on property owned, leased, or operated by a governmental entity other than the City, if the event

does not require the closing or rerouting of a public street; the entity employs certified peace officers to provide security for the event; and the entity adopts and provides to the City, a written plan addressing emergency services, crowd, traffic and parking control.

**D.** Any person who shall hold or sponsor a Special Event without first obtaining a permit required by this Chapter or who shall violate the terms of such permit or who shall fail to do anything required by this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in this Code.

**E.** No penalty imposed by and pursuant to this Chapter shall interfere with the right of the City also to apply to the proper courts of the State for a mandamus, an injunction or other appropriate action against such person, firm, corporation, or association.

(New: Ordinance No. 944 3/4/2019)

**Sec. 9-503. Application for Permit.** A Special Event Permit shall not be issued until a completed Special Event Permit Application, together with any additional information requested, and payments of all applicable fees are received by the City. The Special Event Permit Application must comply with this ordinance, the Special Event Rules and Regulations, and other applicable law.

(New: Ordinance No. 944 3/4/2019)

**Sec. 9-504. Permit Application Requirements.** Applicant shall file a Special Event Permit Application with the City upon forms provided by the City.

(New: Ordinance No. 944 3/4/2019)

**Sec. 9-505. Fees and Costs.**

**A.** The City Council shall establish Special Event Permit Fees.

**B.** Applicant shall pay all required fees with the Special Event Permit Application. Applicant shall also be required to pay all fees and costs required by other City ordinances to conduct specific activities in conjunction with or as part of a Special Event.

**C.** If the City determines that a Special Event may require the special attention and involvement of City personnel or City facilities, the City shall notify the Applicant. Prior to issuance of a Special Event Permit:

- 1.** Applicant and City shall agree upon the additional costs the City will incur as a result of the Special Event and Applicant shall pay those costs to the City; and
- 2.** Applicant shall agree in writing to pay any additional costs to the City incurred as a result of the Special Event within five (5) days of the date upon which the City informs the Applicant of the amount of such additional costs.

**D.** No Special Event Permit Fee shall be charged for a First Amendment Event. An Applicant for a Special Event Permit shall pay fees for street closures to conduct specific activities in conjunction with or as part of a First Amendment Event, but the amount of the fees shall not be in excess of the City's cost to close the street(s) for traffic control.

(New: Ordinance No. 944 3/4/2019)

**Sec. 9-506. Timeframes and Deadlines.**

**A.** A Preliminary Special Event Permit Application shall be filed not more than 365 days, before the commencement of the proposed Special Event.

**B.** A Final Special Event Permit Application shall be filed no less than 45 days, nor more than 365 days, before the commencement of the proposed Special Event. The City Superintendent or designee may consider a Final Special Event Application that is filed less than 45 days before the commencement of the proposed Special Event where good and compelling cause is shown and applicable late fees are paid with the application.

C. The City may issue a Special Event Permit for a First Amendment Event when the Final Special Event Permit Application is filed less than 30 days before the commencement of the First Amended Event provided there is adequate time for the City to process the Application and to assure that there are adequate traffic measures in place for the orderly movement of the First Amendment Event participants and traffic. The City and the Applicant shall communicate with the police department and fire department prior to the First Amendment Event.

D. When a timeframe or deadline established in this Section resulted in an Application being due on a weekend, holiday or a day the City is closed for business, the Application shall be due on the business day immediately following said weekend, holiday or closed business day.

(New: Ordinance No. 944 3/4/2019)

**Sec. 9-507. Application Process and Review.** The Special Event Permit Application will be processed and reviewed by the City Superintendent or designee. The City Superintendent or designee may appoint an events committee or an individual designee responsible for the application process.

(New: Ordinance No. 944 3/4/2019)

**Sec. 9-508. Standards for Issuance of Special Event Permit.** A Special Event Permit will be issued only if the City Superintendent, or designee, finds that the following standards for issuance of Special Event Permit are met:

1. The Special Event will not unnecessarily interrupt the safe and orderly movement of traffic near its location or route.
2. The Special Event will not require the diversion of a number of police officers to properly police the Special Event locale or line of movement and the adjacent areas as to prevent adequate police protection for the City.
3. The concentration of people, animals, and vehicles at assembly points will not unduly interfere with proper fire and police protection or ambulance service to areas near such assembly points or the City.
4. A Parade is scheduled to move from its point of origin to its point of termination without unreasonable delays in route.
5. Other licenses and permits, restrictions, regulations, fees for the City services, safeguards or other conditions deemed necessary by individual City departments for the safe and orderly conduct of a Special Event are requested, submitted, and approved (i.e. health permit applications, agreement with police department for police coverage, agreement with public works department regarding cost associated with street closure, etc.).

(New: Ordinance No. 944 3/4/2019)

**Sec. 9-509. Denial or Revocation of a Permit.**

A. The City Superintendent or designee may deny issuance of a Special Event Permit if:

1. The Special Event will conflict in time or location with another Special Event or event.
2. The Applicant fails to comply with, or the Special Event will violate, the Special Event Rules and Regulations, any City ordinance or any other applicable law.
3. The Applicant makes or allows the making of a false or misleading statement or omission of material fact on a Special Event Application.
4. The Applicant has violated this ordinance or has had a Special Event Permit revoked within the preceding twelve (12) months.
5. The Applicant fails to provide proof of a license or permit required by any City ordinance or by other applicable law for the Special Event.
6. The Applicant fails to provide proof that the insurance requirements for the Special Event have been met.



7. The Special Event would severely hinder the delivery of normal or emergency public services or constitutes a public threat.

8. If the City Superintendent or designee determines that the Special Event Permit shall be denied, the City Superintendent or designee shall consider alternatives to the time, place or manner of the Special Event that would allow the Special Event to occur.

**B.** A Special Event Permit shall be revoked upon the following conditions:

1. If the police chief, fire chief, risk manager, building official or other City official, or their designated representatives, find that any of the provisions of this ordinance, another City ordinance, Special Event Rule or Regulation, or other applicable law is being violated, they shall immediately notify the City Superintendent or designee and based on that information, the City Superintendent or designee shall determine whether the Special Event Permit shall be revoked.

2. When, in the judgment of any of the above named City officials, a violation exists which requires immediate abatement, the City official shall have authority to revoke a Special Event Permit in the absence or unavailability of the City Superintendent or designee.

3. The Applicant made or allowed to be made a false or misleading statement or omission of material fact on a Special Event Application that was not discovered until after the Special Event Permit was issued.

(New: Ordinance No. 944 3/4/2019)

**Sec. 9-510. Appeal.** If the City Superintendent or designee denies the issuance of a Special Event Permit, or if the City revokes an issued Special Event Permit, the Applicant shall promptly be notified in writing. Such written notice shall include the reasons for the decision to deny or revoke the Special Event Permit. The Applicant or Permittee may appeal the denial or revocation to the City Council who shall promptly make a ruling on the appeal.

(New: Ordinance No. 944 3/4/2019)

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# Title 10

## OFFENSES AND CRIMES

### Chapter 1

#### OFFENSES IN GENERAL

Sec. 10-101.	Attempts to commit an offense. . . . .	10.1
Sec. 10-102.	Aiding in an offense. . . . .	10.1

**Sec. 10-101. Attempts to commit an offense.** Every person who attempts to commit an offense against the ordinances of the City, and in such attempt does any act toward the commission of such offense, but fails or is prevented or intercepted in the perpetration thereof, is guilty of an offense, and shall be punished in the manner prescribed for the attempted offense itself.

**Sec. 10-102. Aiding in an offense.** When no punishment for counseling or aiding in the commission of a particular offense is expressly prescribed by ordinance, every person who counsels or aids another in the commission of such is guilty of an offense, or misdemeanor, and punishable in the same manner as the principal offender.

### Chapter 2

#### OFFENSES AGAINST PROPERTY

Sec. 10-201.	Petit larceny prohibited. . . . .	10.1
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**Sec. 10-201. Petit larceny prohibited.**

**A.** Petit larceny is the taking of personal property of value not exceeding Fifty Dollars (\$50.00) accomplished by fraud or stealth and with intent to deprive another thereof, but it does not include the taking of such property from the “person” of another.

**B.** Petit larceny is unlawful, and any person who commits larceny shall be guilty of a misdemeanor.

**Sec. 10-202. Injuring automobiles and other vehicles.** It is unlawful for any person to start, otherwise meddle with, molest, enter, occupy, or loiter in any automobile or other vehicle belonging to another, without the consent of the owner or person in charge thereof.

**Sec. 10-203. Destroying or injuring buildings and other property.** It is unlawful for any person to destroy, injure, deface, besmear, or molest any structure, building, outbuilding, fence, or any other property, real or personal, public or private, belonging to another; or to use any such property wrongfully to the detriment of the owner or other person entitled to its use; or to interfere wrongfully with the use of any such property by its owner or any other person entitled to it use.

**Sec. 10-204. Placing signs on property of another.** It is unlawful for any person to place, stick, tack, paste, post, paint, mark, write or print any sign, poster, picture, announcement, advertisement, bill placard, device or inscription upon any public or private building, fence, sidewalk, bridge, viaduct, post, automobile, other vehicle or other property of another, without the consent of the owner or person in charge thereof.

**Sec. 10-205. Throwing or shooting at persons or property.** It is unlawful for any person to throw or shoot any stone or other object into or across any street or alley, or in any place where he is likely to hit another person wrongfully or to injure property, or to throw or shoot any stone or other object at any person, vehicle, structure, electric light or other property of another (whether public or private), except in case where such is done in defense of oneself, of another person or property.

**Sec. 10-206. Tampering with or damaging utilities, repair.**

**A.** It is unlawful for any person to connect or attach any kind of pipe, wire or other contrivance to any pipe, line, wire or other conductor carrying gas, water, electricity, telephone or cable television and belonging to a public utility (whether publicly or privately owned), in such a manner as to enable him to consume or use the gas, water, electricity, telephone or cable signals without it passing through the meter or any other way so as to evade payment therefore. It is also unlawful for any person to damage, molest, tamper with, or destroy any pipe, line, wire, meter, or other part of any publicly utility, including any telegraph or telephone system.

**B.** If any evidence of tampering or damaging of a public utility or private premises is proven, the owner or occupant of such premises shall be presumed responsible for the damage and fine.

**C.** Any person damaging, breaking or rendering inoperable any utility line belonging to the City or the Wagoner Public Works Authority shall be responsible and pay the cost of all repairs and for the removal of any excess dirt or other debris from the sight.

**Sec. 10-207. Throwing advertising on street, prohibited.** It is unlawful for any person to purposely or premeditatedly put or throw any sign, poster, picture, announcement, advertisement, bill placard, device or inscription upon any public street, road, alley or other public place in the City

**Sec. 10-208. Throwing injurious substances.** It is unlawful for any person to purposely or premeditatedly put or throw upon the person or property of another, or upon any animal, any acid, corrosive or other irritating or harmful substance, or human or animal waste or urine, with intent to injure or harass the person, property or animal.

**Sec. 10-209. Injury to plants and trees.** It is unlawful for any person to willfully and without authority cut, pull, pluck or otherwise injure any flowers, flowering plants, shrubs or trees growing in or around any park or public street within the City, or willfully or without authority to tear down, remove, cut or otherwise injure or destroy any gate or fence enclosing any such park or ground, or willfully injure or destroy and stand, bench, seat or other property situated upon such park or ground.

**Sec. 10-210. Public streets and trees.** It is unlawful for any person to:

1. Willfully or wantonly cut, deface or in any way injure any tree or sapling standing or growing in any of the streets, alleys or public places within the City;
2. Attach any guy wires, telephone, telegraph, or electric wire, or any wire to any live tree;
3. Dig any hole, ditch or trench in any public street, road, avenue or alley, or any other public premises or ground within, belonging to or under the supervision or control of the City;
4. Take or remove any dirt, earth or any substance from any street, road, alley or other public place in the City; or to cut, break or otherwise injure any pavement, curb, gutter therein; or

5. Connect any driveway to any street or other public place without first securing permission from the City Inspector so to do.

Any such digging, removing, or driveway connection shall be done under the supervisions of the City superintendent or his designee.

**Sec. 10-211. Trespass prohibited.**

A. For the purpose of this section, the following terms shall be defined as follows:

1. "Public property" means that property which is dedicated to public use and over which the federal, state or municipal government or any subdivision thereof exercises control;
2. "Private property" means any property other than public property; and
3. "Trespass" means each and every actual entry upon the premises of an owner or other person in lawful possession of the premises without the express or the implied consent of the owner or other person in lawful possession. Trespass shall also mean remaining upon the premises of an owner or other person in lawful possession after having been told to leave the premises by the owner, or the agent, or employee of the owner, or other person in lawful possession of the premises. Trespass shall also be defined as the act of remaining on private property at any time other than during posted hours of business operation after having been directed to vacate such premises by a police officer; provided that the provisions of this sentence shall not apply to persons, including employees, whose presence upon such premises is authorized by the owner or by a person in lawful possession of such premises; nor shall the provisions of this sentence apply unless hours of business operations are posted upon such premises. Trespass shall also be defined as the act of returning to private property before the posted time of opening for business operation on the next business day after having been directed to vacate such premises under the terms of this subsection.

B. It is illegal for any person to enter upon the property of another or into an area or structure on such property (whether such property, area or structure is public or private), when such entrance is plainly forbidden by signs or otherwise or when the property, area or structure is enclosed, except when such entrance is in line of duty, or with the expressed, or tacit consent of the owner or person in charge, or otherwise by authority of law or ordinance.

**Sec. 10-212. Parking on property of another.** It is unlawful for any person to park an automobile or other vehicle, or to place any structure or object on the driveway, yard, or property of another without the expressed or tacit consent of the owner or person in charge thereof, or when necessary in the performance of a duty, or otherwise by authority of law or ordinance.

**Sec. 10-213. Interference with fire hydrants.**

A. It is unlawful for any person except one duly authorized by the City or a member of the fire department to open, turn on or off, interfere with, attach any pipe or hose to, or connect anything with, any fire hydrant or stop cock belonging to the City.

B. It is unlawful for any person to obstruct access to any fire hydrant by placing around or thereon brick, lumber, dirt or other thing, or in any other manner obstructing access to a fire hydrant.

**Sec. 10-214. Deposit trash on property without permission.**

A. It is unlawful for any person to dump, deposit, throw or in any manner leave or abandon any solid waste, including but not limited to, garbage, tin cans, bottles, rubbish, vegetation, refuse or trash on property owned by another person without the written permission of the owner or occupant of such property or on any public highway, street or road, drainage area, creek or river, public parks or recreation areas or any other public property except that designated for such use.

B. The solid waste disposed of unlawfully as provided in the preceding subsection which contains three (3) or more items bearing a common address in the form which tends to identify the owner of the items shall be a rebuttable presumption that all competent persons residing at such address committed the unlawful act of disposal.

# Chapter 3

## OFFENSES AGAINST THE PUBLIC

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### **Sec. 10-301. Disturbing the peace.**

**A.** It is unlawful to disturb or alarm the peace of another or others by doing any of the acts set out in following subsection.

**B.** Disturbing the peace is the doing of any of the following in such a manner as would foreseeably alarm or disturb the peace of another or others;

1. Using obscene, offensive, abusive, profane, vulgar, threatening, violent or insulting language or conduct; or
2. Committing any other act in such a manner as to unreasonably disturb or alarm the public.

### **Sec. 10-302. Disorderly Conduct Unlawful; Definition.**

**A.** It shall be unlawful, and constitute a misdemeanor for a person to engage in disorderly conduct.

**B.** As used in this section “disorderly conduct” shall be defined as:

1. Conduct which is violent or tumultuous and which places any person in fear of his or her life or safety;
2. Conduct which is violent or tumultuous and which places the property of any person in danger of being damaged or destroyed;
3. Conduct which endangers the lawful pursuits of another by acts of violence, angry threats or abusive conduct;
4. Intentionally jostling, crowding or pushing any person in a public place; or
5. Using fighting words directed toward any person and thus creating a turmoil;

(New: Ordinance No. 928 4/3/2017)

### **Sec. 10-303. Insulting signs, literature or language.**

**A.** It is unlawful for any person, firm or corporation within the City to display any sign, emblem, badge, flag or device, which in its common acceptance is insulting, profane, or abusive to the citizens of the city, and which is calculated, or of which the natural consequence is, to cause a breach of the peace or an assault.

**B.** It is unlawful for any person to willfully use, utter, publish, circulate or distribute any profane, violent, abusive, or insulting language or literature where:

1. A natural consequence of the language or literature is to cause a breach of the peace or an assault; or

2. The language or literature, in its common acceptance, is calculated to cause a breach of the peace or an assault.

**Sec. 10-304. Fireworks restricted.**

**A.** For the purpose of this section, "fireworks" shall be as defined in section 1622 of Title 68 of the Oklahoma Statutes.

**B.** Except as otherwise specifically provided in this Chapter, it is unlawful for any person to sell, store or have in his possession for the purpose of sale any fireworks of any size, type, or description except fireworks sold at wholesale or stored for sale at wholesale by a licensed wholesale fireworks dealer.

**C.** The City Clerk shall issue a temporary permit for any one location authorizing the sale of fireworks and related items from nine o'clock (9:00) a.m. June 15th through nine o'clock (9:00) p.m. July 5th of any year, upon satisfaction of the following terms and conditions:

1. Written application and site plan, showing the location of all structures and signs, shall be filed with the City Clerk not later than June 15th of each year. (If property is not owned by applicant, written authorization from property owner shall be submitted with application.)
2. A permit fee in an amount to be established by the City Council shall be paid to the City Clerk at the time the application is made; Provided however, no fee shall be charged to schools or other nonprofit organizations which operate primarily within the City limits.
3. The applicant files satisfactory evidence with the City Clerk showing minimum, general liability coverage of one hundred thousand/three hundred thousand/one hundred thousand dollars (\$100,000/\$300,000/\$100,000) limits.
4. The City Superintendent determines that the location of any stand to be set up for the sale of fireworks does not constitute a hazard to the health, safety, and welfare of the community.
5. The applicant has not previously violated the provisions of this section.

**D.** In the event the temporary application is denied the sum of one hundred twenty-five dollars (\$125.00) shall be refunded to the applicant.

**E.** The use, firing, igniting, lighting or discharge of fireworks within the city is unlawful except on July 3rd and July 4th of any year, except as otherwise authorized and except those displays authorized by the City Council and under control of qualified persons; Provided however, it is unlawful to discharge, use, fire, ignite or light any bottle rocket or stick rocket in the City at any time or to discharge any fireworks from, across or onto any road, street or highway.

(Amended: Ordinance No. 943 1/7/2019)

**Sec. 10-305. Storing or keeping explosives.** It is unlawful for any person to store or keep within the City any nitroglycerin, dynamite, gunpowder, blasting powder, or any other highly explosive material or substance, except that gunpowder may be kept in approved quantities if the same can be securely and safely kept and in accordance with city ordinances and state laws.

**Sec. 10-306. Carrying concealed weapons, discharge firearms.**

**A.** It is unlawful for any person to carry concealed upon or about his person any firearm or any weapon such as a bowie knife, dirk, dagger, metal knuckle, switchblade knife or other dangerous or deadly weapon or instrument, except when doing so in the line of duty or as may be permitted by state law.

**B.** It is unlawful for any person to discharge a firearm in the City except when doing so in line of duty, when lawfully doing so in defense of oneself, of another person or of property, or when otherwise authorized by state law or ordinance.

**Sec. 10-307. Reckless conduct.** It is unlawful for any person to engage in reckless conduct while having in his possession any firearm, such actions consisting of creating a situation of unreasonable risk and probability of death or great bodily harm to another, and demonstrating a conscious disregard for the safety of another person.

**Sec. 10-308. Loud noise or music prohibited, amplified sound.** It is unlawful for any person to disturb the peace and quietude of any part of the City by operating, having operated, or permitting to be operated, any contrivance, whether electric or not, with or without a loud speaker, in such a manner as to emit loud music, noise or words. However, this section shall not prohibit religious bodies from playing chimes, bells, carillons or other religious music.

**Sec. 10-309. Unlawful fighting, assemblies.**

**A.** It is unlawful to engage in a fistic encounter.

**B.** It is unlawful to hold an unlawful assembly of two (2) or more persons, including being assembled together and acting in concert, to do any unlawful act against the peace or to the terror of others, or preparing for or moving toward such acts, or otherwise assembling unlawfully or riotously.

**C.** It is unlawful to interrupt any lawful assembly of people by making noise, by rude, indecent or improper behavior, by profane, improper or loud language, or in any other manner, either within the place of assembly or within hearing distance thereof.

**D.** It is unlawful to disturb any congregation or assembly of persons meeting for religious worship by making noise, by rude, indecent or improper behavior, by profane, improper or loud language, or manner, either within the place of worship or within hearing distance thereof.

**Sec. 10-310. Vagrancy defined for specific acts.** It is unlawful to be a vagrant in the limits of the City. For the purposes of this section, a vagrant means any person who loiters or remains in or wanders about, a public or private place for any of the following purposes:

1. For the purpose of gambling with cards, dice or other gambling paraphernalia;
2. For the purpose of engaging in prostitution or soliciting prostitution or soliciting for an act of lewdness;
3. For the purpose of engaging in theft, or breaking and entering any building, property or automobile of another;
4. For the purpose of injuring, destroying, molesting or defacing any property of another;
5. For the purpose of assaulting any person;
6. For the purpose of begging or soliciting alms, provided that this section shall not apply to persons soliciting alms for bona fide religious, charitable or eleemosynary organizations with the authorization of such organizations; or
7. For the purpose of selling, purchasing, trading or otherwise exchanging, procuring or making available illegal drugs or contraband.

## Chapter 4

### OFFENSES AGAINST THE HEALTH, WELFARE AND MORALS

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**Sec. 10-401. Public intoxication and drinking prohibited.**

**A.** It is unlawful for any person to appear or be upon or in any street, alley, or other public place in the City in a state of intoxication.

**B.** For the purposes of this section, a state of intoxication means the condition in which a person is under the influence of any intoxicating, non-intoxicating, spirituous, vinous or malt liquors, or of any narcotic, to such extent as to deprive the person of his or her full physical or mental power.

**Sec. 10-402. Intoxicating liquors.** It is unlawful:

1. For any person to barter, sell, give away or otherwise furnish to another any intoxicating liquor or beverage of any kind except as permitted by law;
2. To have in possession or under control any intoxicating liquor or beverage except as permitted by law, or to transport or in any manner convey from place to place in the City any intoxicating liquor or beverage except as permitted by law;
3. To loiter in a place where intoxicating liquor is sold, bartered, given away or otherwise furnished contrary to law; or
4. To keep, maintain, aid or abet in keeping or maintaining a place where intoxicating liquor is sold, bartered, given away or otherwise furnished in violation of law.

**Sec. 10-403. Marijuana prohibited.**

**A.** It is unlawful for any person:

1. To appear or be upon or in any street, alley, place of business, or other public place while under the influence of marijuana;
2. To use, have, or possess marijuana upon or in any street, alley, place of business, or other public place within the City;
3. To use marijuana in any place within the City except as legally prescribed by a physician licensed to practice in the state; or
4. To loiter about a place where marijuana is sold or furnished illegally.

**B.** For the purpose of this section, “marijuana” means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the rosin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or rosin but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the derivative, mixture or preparation of such mature stalks (except rosin extracted therefrom), fiber, oil or cake, or sterilized seed of such plant which is incapable of germination.

#### **Sec. 10-404. Drug paraphernalia prohibited.**

**A.** The term “drug paraphernalia” means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act of this state. It includes, but is not limited to:

- 1.** Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- 2.** Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- 3.** Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- 4.** Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
- 5.** Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- 6.** Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
- 7.** Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;
- 8.** Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in packaging small quantities of controlled substances;
- 9.** Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- 10.** Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- 11.** Hypodermic syringes, needles and other objects used, intended for use, or designed for use in peritoneal injection of controlled substances into the body; or
- 12.** Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
  - a.** Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
  - b.** Water pipes;
  - c.** Carburetion tubes and devices;
  - d.** Smoking and carburetion masks;
  - e.** Roach clips: meaning objects used to hold burning material such as a marijuana cigarette, that has become too small or too short to be held in the hand;
  - f.** Miniature cocaine spoons and cocaine vials;
  - g.** Chamber pipes;
  - h.** Carburetor pipes;
  - i.** Electric pipes;
  - j.** Air-driven pipes;
  - k.** Chillums;

- l. Bongs; or
- m. Ice pipes or chillers.

**B.** A “controlled dangerous substance” is defined as substances listed as controlled dangerous substances in Sections 2-204, 2-206, 2-208 and 2-210 of Title 63 of the Oklahoma Statutes.

**C.** In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- 1. Statements by an owner or anyone in control of the object concerning its use;
- 2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
- 3. The proximity of the object, in time and space, to a direct violation of this act;
- 4. The proximity of the object to controlled substances;
- 5. The existence of any residue of controlled substances on the object;
- 6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of this section; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this section should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- 7. Instructions, oral or written, provided with the object concerning its use;
- 8. Descriptive materials accompanying the object which explain or depict its use;
- 9. National and local advertising concerning its use;
- 10. The manner in which the object is displayed for sale;
- 11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- 12. Direct or circumstantial evidence of the ratio of sales of object to the total sales of the business enterprise;
- 13. The existence and scope of legitimate uses for the object in the community; or
- 14. Expert testimony concerning its use.

**D.** It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.

**E.** It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this section.

**F.** It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

**G.** Any drug paraphernalia found in possession of any person in violation of this section shall be forfeited to the city and shall be destroyed by the City.

**Sec. 10-405. Prostitution.**

A. A. It is unlawful for any person to:

1. Be a prostitute;
2. Solicit, entice, or procure another to commit or engage in any act of prostitution;
3. Engage in any act of prostitution;
4. Knowingly let premises for purposes of prostitution;
5. Conduct a business or premises for prostitution;
6. Accept or receive the proceeds of any act; or
7. Be a party to an act of prostitution or solicitation of prostitution in the City.

B. For the purposes of this section:

1. Prostitution is the giving of the body for sexual intercourse or sodomy for hire or money;
2. Soliciting for prostitutes is the soliciting, inviting, inducing, directing, or transporting of a person to any place with the intention of promoting prostitution; and
3. Letting premises for prostitution is the granting of the right of use or the leasing of any premises, knowing that they are to be used for the practice of prostitution, or allowing the continued use of the premises with that knowledge.

**Sec. 10-406. Disorderly house.** A disorderly house means any structure or vehicle by which the peace, comfort, health, welfare or decency of the public is disturbed by reason of the people therein committing or resorting to any of the following acts:

1. The sale, distribution, possession or use of any controlled dangerous substance, the sale, distribution, possession or use of which is declared unlawful by state statute;
2. The violation of any of the ordinances of this City or statutes of this state regulating the sale, distribution, possession or use of alcoholic beverages including beer containing more than one-half of one percent (0.5%) alcohol by volume;
3. The performance of any sexual act declared unlawful by state statute or city ordinance including, but not limited to, soliciting for purposes of prostitution; or
4. The violation of any state statute or city ordinance prohibiting gambling.

**Sec. 10-407. Maintaining or leasing disorderly house.**

A. No person shall keep or maintain, or aid, abet or assist in keeping and maintaining a disorderly house.

B. No owner, lessee, lessor, or other person, partnership or corporation having control over any house, building, structure, tent, vehicle, mobile home, or recreational vehicle shall knowingly use, lease, sub-lease or otherwise permit the use of same for the purpose of keeping therein any disorderly house, and knowing or ascertaining that such house, building, structure, tent, vehicle, mobile home, or recreational vehicle is so occupied as a disorderly house, no persons, partnership or corporation shall continue to grant permission to so use such premises as a disorderly house.

**Sec. 10-408. Residents and visitors to disorderly house.** No person shall knowingly reside in, enter into, or remain in a disorderly house. In any prosecution for violation of this section, the City shall have the burden to prove such knowledge by direct evidence only and not by circumstantial evidence. This section shall not apply to physicians or officers in the discharge of their professional or official duties.

**Sec. 10-409. Nudity, improper dress, indecent exposure.** It is unlawful for any person to:

1. Appear in any public place in the City in a state of nudity;

2. Appear in any public place in the City in any offensive, indecent or lewd dress; or
3. Make an indecent public exposure of his or her person.

**Sec. 10-410. Definitions, obscenity regulations.** The following terms when used in the Chapter shall have the meaning respectively ascribed to them in this section:

1. "Obscene" means that to the average person applying contemporary community standards:
  - a. The predominant appeal of the matter taken as a whole, is to prurient interest; i.e. shameful or morbid interest in sexual conduct, nudity, or excretion;
  - b. The matter depicts or describes in a patently offensive manner sexual conduct regulated by Title 21 of the Oklahoma Statutes; and
  - c. The work, taken as a whole, lacks serious literary, artistic, political or scientific value;
2. "Material" means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical, or electrical reproduction or any other articles, equipment or machines;
3. "Person" means any individual, partnership, firm, association, corporation or other legal entity;
4. "Disseminate" means to transfer possession of, with or without consideration;
5. "Knowingly" means being aware of the character and the content of the material;
6. "Minor" means any person under the age of sixteen (16) years;
7. "Nudity" means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, or the depiction of covered male genitals in a discernible turgid state;
8. "Performance" means any preview, play, show, skit, film, dance or other exhibition performed before an audience;
9. "Available to the public" means that the matter or performance may be purchased or attended on a subscription basis, on a membership fee arrangement, or for a separate fee for each item or performance;
10. "Service to patrons" means the provision of services to paying guests in establishments providing food and beverages; including but not limited to hostessing, hat checking, cooking, bar tending, serving, table setting and clearing, waiter and waitressing, and entertaining; and
11. "Promote" means to cause, permit, procure, counsel or assist.

**Sec. 10-411. Curfew for minors.**

**A.** For the purpose of this section, the following terms shall have the meanings respectively ascribed to them in this section:

1. "Minor" is any person under the age of eighteen (18);
2. "Parent" is the natural or adoptive parent of the minor;
3. "Guardian" is any person other than a parent who has legal guardianship of a minor;
4. "Custodian" is any person over the age of twenty-one (21) years who is in *loco parentis* to a minor; and
5. "Public place" means any street, alley, highway, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment or other lawful purpose. A public place shall include, but not be limited to, any store, shop, restaurant, tavern, bowling alley, cafe, theater, drug store, pool room, shopping center and any other public place devoted to amusement or entertainment of the general public. It shall also include the front or immediate area of the above.

**B.** It is unlawful for any minor to remain, wander, stroll or play in any public place on foot or to cruise about without a set destination in any vehicle in, about or upon any public place in the City between the hours of 12:00 midnight and 5:00 A.M. in the morning on any day unless:

1. The minor is accompanied by a parent, guardian, custodian or other adult person having custody or control of such minor;
2. The minor is on an emergency errand or specific business or activity directed or permitted by his parent, guardian or other adult person having the care and custody of the minor; or
3. Where the presence of such minor is connected with or required by some legitimate employment, trade, profession or occupation.

**C.** It is unlawful for any person, firm or corporation operating or having charge of any public place to knowingly permit or suffer the presence of minors between the hours of curfew designated in the preceding subsection of this section.

**D.** It is unlawful for any parent, guardian, custodian or other adult person having custody or control of any minor to suffer or permit or be inefficient control to allow such person to be on any public place within the City between the hours of curfew designated in Subsection B of this section. The provisions of this section do not apply if:

1. The minor is accompanied by a parent, guardian, custodian or other adult person having the care, custody or control of the minor;
2. The minor is on an emergency errand or specific business or activity directed by his parent, guardian, custodian or other adult having the care and custody of the minor; or
3. The parent, guardian or other adult person herein has made a missing person notification to the city police department.

**E.** The Council may permit by resolution or motion procedures for advance notice or registration with the City of special events or functions sponsored by churches, schools, clubs or other organizations which require minors to be out at a later time. The Council may also prescribe the procedures for taking into custody minors found in violation of this section.

**F.** A parent, guardian or custodian, of such minor, may file a written application directed to the Marshal of the City who may grant a special exemption of enforcement of the curfew provided by this section being required as to such minor, which exemption shall not exceed five (5) consecutive days, or in the alternative, two (2) days of any week for a period not to exceed thirty (30) days. All requests shall be filed with the City Clerk.

**G.** The Marshal shall have the authority to grant or reject any request for an exemption to enforcement of the curfew provided by this section or may reduce the time limit of such exemption. However, any applicant for such exemption, feeling aggrieved by the action of the chief of police, may file a request for hearing before the judge of the municipal court of the City who shall summarily hear same, and his judgment shall be final.

**H.** Any law enforcement officer who shall witness a violation of this section may take such offender into his custody to be prosecuted for such violation, require the posting of a sufficient bond for such minor's appearance in court, or may place the minor in the custody of his or her parents or some responsible person.

**Sec. 10-412. Sleeping on the streets, depots.** It is unlawful for any person, between the hours of 12:00 A.M. midnight and sunrise to sleep on any street, in any other public place, or on any property of another without the express or tacit consent of the owner or person in charge of such place.

**Sec. 10-413. Begging prohibited.** It is unlawful for any person to beg alms for any person, organization or agency except an organization or agency, public or private, whose purpose or one of whose purposes is to aid persons in need.

**Sec. 10-414. Gambling prohibited.**

**A.** Except as authorized by law, it is unlawful for any person, firm or corporation, or agent or employee thereof, to do any of the following:

1. To play, to open or cause to be opened, or to operate, carry on or conduct, whether for hire or not, any game of faro, monte, poker, roulette, craps, any banking, percentage or other game played with dice, cards, or any device, for money, checks, chips, credit or any other thing of value;
2. To set up, operate or permit to be operated, any slot machine or other device whatsoever where money, checks, chips, credit or any other things of value are played, when the act of playing the same might result in a gain or loss to the party playing;
3. To gamble knowingly in any manner; or
4. To knowingly permit his or its premises, houses, lot or other property to be used in connection with, or for, any act declared unlawful in this section.

**B.** It is unlawful and an offense against the City for any person to play any roulette wheel or slot machine or any other device or machine wherein the element of chance is involved by losing or winning money, credits, checks or any other representatives of value.

**Sec. 10-415. Loitering about place where gambling is going on.** It is unlawful for any person to loiter about in the immediate vicinity where a person or persons are gambling, whether by playing games, operating a slot machine or other device, or otherwise.

**Sec. 10-416. Harmful deception.** It is unlawful for any person knowingly to deceive another, whether by impersonation, misrepresentation, or otherwise, when such deception results in or contributes to the loss, damage, harm or injury of the person deceived or of a third party, or results in or contributes to the benefit of the deceiver.

**Sec. 10-417. False or bogus checks.** It is unlawful for any person, with intent to cheat and defraud, to obtain or attempt to obtain from any person, firm or corporation, any money, property or valuable thing of the value of Fifty Dollars (\$50.00) or less by means of any false or bogus check or by any other written or printed or engraved instrument or spurious coin. The term "false or bogus check" shall include checks or orders given for money or property which are not honored because of insufficient funds of the maker to pay same, as against the maker or drawer thereof. The making, drawing, issuing or delivering of a check, draft or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and the knowledge of insufficient funds in or credit with, such bank or other depository. Such maker or drawer shall not have paid the drawee the amount due thereon, together with the protest fees, and the check or order shall be presented for payment within thirty (30) days after same is delivered and accepted.

**Sec. 10-418. Synthetic controlled substances prohibited.**

**A.** As used in this section "synthetic controlled substance" shall have the same meaning as used in "The Controlled and Dangerous Substances Act", Title 63 O.S. 2-101, et seq., as may be amended.

**B.** It shall be unlawful and constitute a misdemeanor for any person, firm, or entity to manufacture, cultivate, distribute, or possess with intent to distribute a synthetic controlled substance.

**C.** Nothing in this section shall prohibit the possession, manufacture, cultivation, distribution, or possession with intent to distribute of a synthetic controlled substance when authorized by the Food and Drug Administration of the United States Department of Health and Human Services or by the State of Oklahoma.

**Sec. 10-419. Hosting, permitting, or allowing a party, gathering, or event where an individual under the age of 21 consumes an alcoholic beverage.**

**A.** It is the duty of any person having control of any premises, who knowingly hosts, permits, or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any individual under the age of 21 at the gathering. Reasonable steps include controlling access to alcoholic beverages at the gathering; controlling the quantity of alcoholic

beverages present at the gathering; verifying the age of persons attending the gathering by inspecting drivers' licenses or other government-issued identification cards to ensure that individuals under the age of 21 do not consume alcoholic beverages while at the gathering; and supervising the activities of individuals under the age of 21.

**B.** It shall be unlawful and constitute a misdemeanor for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one individual under the age of 21 consumes an alcoholic beverage, and the person having control of such premises fails to take reasonable steps as set forth in subsection A of this section to prevent the consumption of an alcoholic beverage at said gathering by an individual under the age of 21.

(New: Ordinance No. 931 9/5/2017)

## Chapter 5

### OFFENSES AGAINST PERSONS

Sec. 10-501.	Assault and battery prohibited.	10.14
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**Sec. 10-501. Assault and battery prohibited.**

- A.** It is unlawful to commit an assault or an assault and battery within the City.
- B.** For the purposes of this section, an assault is any willful and unlawful attempt or offer with force or violence to do a corporal hurt to another. A battery is any willful and unlawful use of force or violence upon the person of another.

## Chapter 6

### OFFENSE AGAINST PUBLIC AUTHORITY

Sec. 10-601.	Resisting an officer.	10.14
Sec. 10-602.	Refusing or failing to assist an officer.	10.15
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Sec. 10-608.	False representation to an officer.	10.16
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Sec. 10-610.	Resisting public officials.	10.16
Sec. 10-611.	Eluding police officer.	10.16

**Sec. 10-601. Resisting an officer.**

- A.** It is unlawful to resist, oppose or assault, or in any way interfere with a police officer or any person duly authorized to act as such, while the officer or person is discharging or attempting to discharge his official duties within the City.
- B.** It is unlawful for any person to warn or signal another so as to assist such other person to flee, escape or evade an officer seeking to make an arrest or for any person to bat or lock any door or barrier in the face of or in front of an approaching officer.



C. Resisting an officer is the intentional opposition or resistance to, or obstruction of, an individual acting in his official capacity, and authorized by law to make a lawful arrest or seizure of property, or to serve any lawful process or court order, when the offender knows or has reason to know that the person arresting, seizing property, or serving process is acting in his official capacity.

D. The words “obstruction of” shall, in addition to their common meaning, include:

1. Flight by one sought to be arrested before the arresting officer can restrain him and after notice is given that he is under arrest;
2. Any violence toward or any resistance or opposition to the arresting officer after the arrested party is actually placed under arrest and before he is under arrest; or
3. Refusal by the arrested party to give his name and make his identity known to the arresting officer.

**Sec. 10-602. Refusing or failing to assist an officer.**

A. A police officer of the City making or about to make an arrest, or executing or about to execute a warrant or other process, in accordance with the ordinances of the City or with state or federal law, or suppressing or about to suppress a riot, affray or unlawful assembly, may call upon person or persons to assist him in making such arrest, executing such process or suppressing such riot, affray or unlawful assembly.

B. It is unlawful for any person lawfully called upon thus to assist a police officer of the City to refuse or fail to do so.

**Sec. 10-603. Assault or battery upon police or other law officer.** It is unlawful for any person, without justifiable or excusable cause, to knowingly commit any assault, battery or assault and battery upon the person of a police officer or other officer of the law while in the performance of his duties.

**Sec. 10-604. Rescuing prisoners.** It is unlawful for any person, in any illegal manner, to set at liberty, rescue or attempt to set at liberty, any prisoner or prisoners, from any officer or employee of the City having legal custody of the same or from the city jail or other place of confinement by the City, or to assist such prisoner in any manner to escape from such prison or custody either before or after conviction, including escape from a vehicle of confinement.

**Sec. 10-605. Escape of prisoners.** It is unlawful for any person confined in the city jail or other place of confinement by the City, or working upon the streets or other public places of the City in pursuance of any judgment, or otherwise held in legal custody by authority of the City, to escape or attempt to escape from any such jail, prison or custody.

**Sec. 10-606. Impersonating an officer or employee.** It is unlawful for any person to impersonate any officer or employee of the City, falsely represent himself to be an officer or employee of the City, or exercise or attempt to exercise any of the duties, functions or powers of an officer or employee of the City without being duly authorized to do so.

**Sec. 10-607. False alarms.**

A. It is unlawful for any person to knowingly turn in a false alarm of any nature or in any manner to deceive or attempt to deceive the fire department or police department or any officer or employee thereof with reference to any fire alarm or reported fire, accident or other emergency or knowingly to cause the fire department or police department or its officers or employees to make a useless run.

B. It shall be unlawful for any person to report or cause to be reported to any municipal employee, department or agency any information concerning a fire, the commission of any offense, or any other incident which would require police, fire or emergence medical technician response, when that person:

1. Knows that no such fire, offense, or other incident has occurred; or
2. Has no knowledge of the existence of a fire, offense or other incident at the time the report is made.

C. It shall be unlawful for any person to:

1. Molest or tamper with any alarm box, telephone, radio, or other instrument, whether publicly or privately owned, which is part of a system intended to communicate or signal the police, fire department, ambulance service; or
2. To turn in any type of false alarm to any municipal employee.

D. It shall be unlawful for any person to call or otherwise make use of any E911 telephone system to communicate with or signal municipal officials, unless such communication or signaling genuinely concerns:

1. A fire;
2. The commission of any offense;
3. The existence of any medical emergency; or
4. The existence of any other incident which would require police, fire, or emergency medical technician response.

**Sec. 10-608. False representation to an officer.** It is unlawful for any person, firm or corporation, or any agent or employee thereof, knowingly to make any material misrepresentation to any officer, employee or agency of the City in any official application to, or official dealing or negotiation with, such officer or agency; or to commit perjury before any tribunal or officer of the City.

**Sec. 10-609. Removal of barricades.** It is unlawful for any person except by proper authority to remove any barricade or obstruction placed by authority of the city to keep traffic off any pavement, street, curb, sidewalk or other area.

**Sec. 10-610. Resisting public officials.** It is unlawful for any person knowingly or willfully to:

1. Resist, oppose or obstruct the Marshal, any other police officer, the municipal judge, or any other officer or employee of the City in the discharge of his official duties;
2. Threaten or otherwise intimidate or attempt to intimidate any such officer or employee of the City from the discharge of his official duties; or
3. Assault or beat, or revile, abuse, be disrespectful to, use abusive or indecent language toward or about, any such officer or employee while such officer or employee is in the discharge of his official duties.

**Sec. 10-611. Eluding police officer.** It is unlawful for any operator of a motor vehicle who has received a visual and audible signal, a red light and a siren only from a police officer driving a motor vehicle showing the same to be an official police car, directing the operator to bring his vehicle to a stop, and who willfully increases his speed or extinguishes his lights in an attempt to elude such police officer, or who does elude such police officer.

## Chapter 7

### PREVENTION OF NICOTINE ADDICTION AMONG YOUTH

Sec. 10-701.	Findings and intent. . . . .	10.17
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**Sec. 10-701. Findings and intent.** The City Council finds that youth addiction to tobacco products is a public health problem with grave health consequences. In recognition that almost 90 percent of all smokers begin smoking by the age of 18, action is needed to curtail the easy access of minors to cigarettes and other addictive tobacco products. Furthermore, the City Council finds that the Oklahoma State Legislature has limited the powers granted to local governments to address the problem of youth access to tobacco. Therefore, the intent of this ordinance is to: 1) implement the strictest and most enforceable system allowed under Oklahoma state law to prevent the illegal sale of cigarettes and other tobacco products to minors; 2) periodically amend and update this ordinance as necessary to best utilize any applicable powers which may be returned to Oklahoma municipalities in the future; and 3) educate, encourage and assist underage tobacco users in ceasing all use of addictive tobacco products, preferably before daily use of such products is initiated.

**Sec. 10-702. Definitions.** As used in this Chapter:

1. "Person" means any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed.
2. "Proof of age" means a driver license, license for identification only, or other generally accepted government-issued means of identification that describes the individual as eighteen (18) years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid.
3. "Sample" means a tobacco product distributed to members of the public at no cost for the purpose of promoting the product.
4. "Sampling" means the distribution of samples to members of the public in a public place.
5. "Tobacco product" means any product that contains tobacco and is intended for human consumption.
6. "Transaction scan" means the process by which a seller checks, by means of a transaction scan device, the validity of a driver license or other government-issued photo identification.
7. "Transaction scan device" means any commercial device or combination of devices used at a point of sale or entry that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver license or other government-issued photo identification.
8. "Vapor Product" means the noncombustible products, that may or may not contain nicotine, that employ a heating element, battery, electric circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor products" do not include any products regulated by the United States Food, Drug and Cosmetic Act.

**Sec. 10-703. Furnishing, giving, or sale of tobacco products to minors.**

- A. It shall be unlawful and shall constitute a misdemeanor for any person to sell, give or furnish in any manner any tobacco product to a person who is under eighteen (18) years of age, or to purchase

in any manner a tobacco product on behalf of such person. Provided, however, that it shall not be unlawful for an employee under eighteen (18) years of age to handle tobacco products when required in the performance of the employee's duties.

**B.** A person engaged in the sale or distribution of tobacco products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser might be less than eighteen (18) years of age.

If an individual engaged in the sale or distribution of tobacco products has demanded proof of age from a prospective purchaser or recipient who is not less than eighteen (18) years of age, the failure to subsequently require proof of age shall not constitute a violation of this Section.

**C.** Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought pursuant to this section. A person cited for violating this section shall be deemed to have reasonably relied upon proof of age, and such person shall not be found guilty of the violation if such person proves that:

1. The individual who purchased or received the tobacco product or vapor product presented a driver license or other government-issued photo identification purporting to establish that such individual was eighteen (18) years of age or older; or
2. The person cited for the violation confirmed the validity of the driver license or other government-issued photo identification presented by such individual by performing a transaction scan by means of a transaction scan device.

Provided, that this defense shall not relieve from liability any person cited for a violation of this section if the person failed to exercise reasonable diligence to determine whether the physical description and picture appearing on the driver license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.

**Sec. 10-704. Receipt of tobacco products by a minor.** It shall be unlawful and constitute a misdemeanor for a person who is less than eighteen (18) years of age to purchase, receive or accept receipt of, or have in their possession, a tobacco product, or to present or offer to any person any purported proof of age which is false or fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product. Provided, however, it shall not be unlawful for a person who is less than eighteen (18) years of age to handle such tobacco products when required in the performance of such person's employment.

**Sec. 10-705. Proper signage required.** Every person who sells or displays tobacco products at retail shall post conspicuously a sign as specified by the Alcoholic Beverage Laws Enforcement (ABLE) Commission, stating that it is unlawful to sell tobacco products to persons under 18 years of age. The sign shall also provide the toll-free number provided by the Alcoholic Beverage Laws Enforcement (ABLE) Commission for the purpose of reporting violations of the Prevention of Youth Access to Tobacco Act of the State of Oklahoma.

**Sec. 10-706. Notice to employees.**

**A.** Every person engaged in the business of selling tobacco products at retail store shall notify each individual employed by such person as a retail sales clerk that state and local law:

1. Prohibits the sale or distribution of tobacco products to any person under eighteen (18) years of age and the purchase or receipt of tobacco products by any person under eighteen (18) years of age; and
2. Requires that proof of age be demanded from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be less than eighteen (18) years of age.

**B.** The notice required by the preceding paragraph shall be provided before the employee commences

work as a retail sales clerk. The individual shall signify that he or she has received the requisite notice by reading and signing a notice stating the following:

“I understand that state law prohibits the sale or distribution of tobacco products to persons less than eighteen (18) years of age and out-of-package sales, and requires proof of age of purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under eighteen (18) years of age. I promise, as a condition of my employment, to obey the law. I understand that violations by me may be punishable by fines, suspension or non-issuance of my driver license. In addition, I understand that violations by me may subject the storeowner to fines or license suspension.”

**Sec. 10-707. Limited access to vending machines.** It shall be unlawful for any person to sell tobacco products through a vending machine unless the vending machine is located:

1. In areas of factories, businesses, offices or other places that are not open to the public; or
2. In places that are open to the public, but to which persons under eighteen (18) years of age are not admitted.

**Sec. 10-708. Sale of tobacco products except in original sealed packages.** It is unlawful for any person to sell cigarettes except in the original, sealed package in which they were placed by the manufacturer.

**Sec. 10-709. Distribution of tobacco product samples.**

**A.** It shall be unlawful for any person or retailer to distribute tobacco products or product samples to any person under eighteen (18) years of age.

**B.** No person shall distribute tobacco products or product samples in or on any public street, sidewalk, or park that is within three hundred (300) feet of any playground, school, or other facility when the facility is being used primarily by persons under eighteen (18) years of age.

**Sec. 10-710. No public access to tobacco.** It is unlawful for any person or retail store to display or offer for sale tobacco products in any manner that allows public access to the tobacco product without assistance from the person displaying the tobacco product or an employee or the owner of the store. The provisions of this subsection shall not apply to retail stores which do not admit into the store persons under eighteen (18) years of age.

**Sec. 10-711. Restrictions on manner of enforcement.** Persons under eighteen (18) years of age may be enlisted by the City to assist in conducting compliance checks and enforcement; provided, such persons may be used to test compliance only if written parental consent has been provided and the testing is conducted under the direct supervision of the ABLE Commission or conducted by another law enforcement agency if such agency has given written notice to the ABLE Commission in the manner prescribed by the ABLE Commission. This subsection shall not apply to the use of persons under eighteen (18) years of age to test compliance if the test is being conducted by or on behalf of a retailer of cigarettes, as defined in Section 301 of Title 68 of the Oklahoma Statutes, at any location the retailer of cigarettes is authorized to sell cigarettes.

**Sec. 10-712. Transfer of any material or device used in consumption of tobacco prohibited.** It is unlawful for any person to sell, give or furnish in any manner to another person who is under eighteen (18) years of age any material or device used in the smoking, chewing, or other method of consumption of tobacco, including cigarette papers, pipes, holders of smoking materials of all types, and other items designed primarily for the smoking or ingestion of tobacco products.

**Sec. 10-713. Report of violation and compliance checks.**

**A.** Any conviction for a violation of this Article and any compliance checks conducted by the Police Department pursuant to Subsection (b) of this section shall be reported in writing to the Alcoholic Beverage Laws Enforcement (ABLE) Commission within thirty (30) days of the conviction or compliance check. Such reports shall be compiled in the manner prescribed by the ABLE Commission. Convictions shall be reported by the [Court Administrator/Court Clerk] or his designee and compliance checks shall be reported by the Chief of Police or his designee.

B. Persons under eighteen (18) years of age may be enlisted by the Police Department to assist in enforcement of this Article pursuant to the rules of the ABLE Commission.

**Sec. 10-714. Notification of Department of Public Safety.** The Municipal Court clerk shall notify the Department of Public Safety of a conviction for violation of this Section.

**Sec. 10-715. Severability.** If any part or parts of this Chapter are deemed unconstitutional, invalid or ineffective, the remaining portion shall not be affected but shall remain in full force and effect.

## Chapter 8

### USE OF TOBACCO ON CITY OWNED OR OPERATED PROPERTY

Sec. 10-801.	Purpose. . . . .	10.20
Sec. 10-802.	Definitions. . . . .	10.20
Sec. 10-803.	Prohibition of tobacco and vapor products on City owned or operated property. . . . .	10.21
Sec. 10-804.	Violation and Penalty . . . . .	10.21
Sec. 10-805.	Posting . . . . .	10.21

**Sec. 10-801. Purpose.** The purpose of this Ordinance is to ensure that all buildings and other properties, including indoor areas, outdoor areas and recreational areas as herein defined, shall be entirely tobacco free of the use all forms of tobacco products and vapor products as herein defined.

**Sec. 10-802. Definitions.** The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. “Indoor area” means any indoor area that is owned, controlled or operated by the City of Wagoner, Oklahoma. An indoor area shall include, but not be limited to work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, any other spaces used or visited by employees or the public, and all space between a floor and ceiling that is predominantly or totally enclosed by walls or windows, regardless of doors, doorways, open or closed windows, stairways, or the like. The provisions of this section shall apply to such indoor areas at any given time, whether or not work is being performed;
2. “Outdoor area” means any covered area, partially covered area or area open to the sky that is on property owned, controlled or operated by the City of Wagoner, Oklahoma;
3. “Recreational area” means any area that is owned, controlled or operated by the City of Wagoner, Oklahoma, which open to the general public for recreational purposes, regardless of any fee or age requirement. The term ‘Recreational Area’ includes but is not limited to parks, picnic areas, playgrounds, sports fields, golf courses, walking paths, gardens, hiking trails, bike paths, riding trails, swimming pools, roller- and ice-skating rinks, beaches surrounding lakes and skateboard parks;
4. “Municipal Property” means all buildings, Indoor areas, Outdoor areas, and Recreational areas, and other property, or portions thereof, owned or operated by the City of Wagoner, including, but not limited to vehicles and equipment owned or leased by the municipality;
5. “Tobacco product” means any product that contains or is derived from tobacco and is intended for human consumption excluding drugs or devices approved for cessation by the United States Food and Drug Administration. As used herein “Tobacco product” shall include e-cigarettes and vapor products, with or without nicotine.
6. “Tobacco-free” means to free the use of any tobacco product or vapor product as herein defined by anyone, anywhere, at any time.

7. "Vapor product" means noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form. "Vapor products" shall include any vapor cartridge or other container of a solution, that may or may not contain nicotine, with or without nicotine or other form that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(Amended: Ordinance No. 940 10/1/2018)

**Sec. 10-803. Prohibition of tobacco and vapor products on City owned or operated property.**

A. The use of a tobacco product or vapor product in any indoor area, outdoor area or recreational area as herein defined is declared to be a public nuisance.

B. It is unlawful and shall constitute a misdemeanor to use a tobacco product or vapor product in any indoor area, outdoor area or recreational area as herein defined.

**Sec. 10-804. Violation and Penalty**

A. Any person who knowingly violates this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as set by the City.

B. Any employee of the City shall request any person observed violating this ordinance to refrain from such violation.

(Amended: Ordinance No. 940 10/1/2018)

**Sec. 10-805. Posting**

A. The City of Wagoner, Oklahoma, shall be responsible for posting a sign or decal, at least four inches by two inches in size, at each entrance of any property owned, controlled or operated by the City indicating the property is tobacco-free.

B. The City of Wagoner shall be responsible for posting weather resistant signage of at least 15 inches by fifteen inches or twelve inches by 18 inches with at least one inch lettering at the entrance to outdoor areas owned or operated by the City,

C. The posting of signs or decals shall the responsibility of the department head responsible for said property.

D. In addition, any employee of the City shall request any person observed of violating this ordinance to refrain from such violation.

(Amended: Ordinance No. 940 10/1/2018)

## Chapter 9

### METHAMPHETAMINE PRECURSOR DRUGS

Sec. 10-901.	Sale, delivery or distribution of methamphetamine precursor drugs prohibited. . . . .	10.21
Sec. 10-902.	Separate offense. . . . .	10.22

**Sec. 10-901. Sale, delivery or distribution of methamphetamine precursor drugs prohibited.**

A. It shall be unlawful and constitute a misdemeanor for any person to sell, deliver or distribute any ephedrine, pseudoephedrine, their salts, their optical isomers, or salts of their optical isomers, without a valid prescription issued by a duly licensed physician or supervised physician's assistant and filled by an Oklahoma licensed pharmacist or pharmacy technician.

**B.** Nothing in this section shall prohibit the sale, delivery or distribution of ephedrine, pseudoephedrine, their salts, their optical isomers, or salts of their optical isomers by an Oklahoma licensed physician or physician's assistant within the physician's office, or any clinic, nursing home or other properly licensed healthcare facility upon the orders of said authority.

**C.** Nothing in this section shall prohibit the sale, delivery or distribution of any ephedrine, pseudoephedrine compounds, mixtures, or preparations which are in liquid, liquid capsule or gel capsule form.

**Sec. 10-902. Separate offense.** A separate offense shall be deemed committed for each sale, delivery or distribution in violation of this Chapter.

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PENALTIES

Sec. 10-1001. General penalties. . . . . 10.22

**Sec. 10-1001. General penalties.** Any person, firm or corporation who shall in any manner violate any of the provisions of this Title shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in this Code.



# Title 11

## PARKS, RECREATION AND CEMETERY

### Chapter 1

#### GENERAL PROVISIONS

Sec. 11-101.	Council to make rules for recreational facilities. . . . .	11.1
Sec. 11-102.	Fees to be determined. . . . .	11.1
Sec. 11-103.	Use of parks and public areas prohibited without consent. . . . .	11.1
Sec. 11-104.	Unlawful use of motor vehicles in park. . . . .	11.1
Sec. 11-105.	Penalty . . . . .	11.1

**Sec. 11-101. Council to make rules for recreational facilities.** The Mayor and Council shall promulgate, invoke, create, amend and enforce such rules, regulations, and other requirements as it deems necessary or expedient in connection with the use of all recreational and park facilities owned or operated by the City.

**Sec. 11-102. Fees to be determined.** The City shall provide, from time to time, the fees charged for any such park or recreational privileges on any property or facility for recreational purposes owned or operated by the City.

**Sec. 11-103. Use of parks and public areas prohibited without consent.**

**A.** The use of the parks and public areas within the City for overnight camping is prohibited without the consent of the Mayor and Council of the City.

**B.** The installation or stopping of any trailer or the erection of any tent or shelter after one hour before sundown in the areas described in the preceding section shall constitute presumptive evidence of the breach of Subsection A of this section.

**C.** The foregoing prohibition may be waived by the Mayor and Council at any regular or special meeting in favor of any organized group or association, for such time as specified, not to exceed five (5) days and nights, consecutively.

**Sec. 11-104. Unlawful use of motor vehicles in park.** It is unlawful for any person to drive any truck, automobile, motorcycle, motor scooter, or other motor vehicle or to ride any horse, pony or other animal in or upon the public parks of the City except upon clearly defined public roadways or public parking areas in such parks or except in cases of public necessity when authorized and directed to do so by public officials of this City.

**Sec. 11-105. Penalty** Any person violating any of the rules and regulations adopted pursuant to this Chapter, or failing to comply with such, shall be guilty of an offense, and on conviction thereof, shall be punished as provided in this Code.

### Chapter 2

#### CEMETERY

Sec. 11-201.	Mayor and Council to act as cemetery board. . . . .	11.2
Sec. 11-202.	Conditions of lot purchases. . . . .	11.2
Sec. 11-203.	Price of lots; charges. . . . .	11.2
Sec. 11-204.	Cemetery care fund. . . . .	11.2

Sec. 11-205.	Traffic regulations. . . . .	11.2
Sec. 11-206.	Penalty. . . . .	11.2

**Sec. 11-201. Mayor and Council to act as cemetery board.** The Mayor and Council shall serve as trustees for the cemetery and it shall be the duty of the board to establish rules and regulations for the operation and maintenance of all municipal cemeteries. The Mayor and Council, at their discretion, may delegate to a cemetery board the duties of maintaining and operating all municipal cemeteries.

**Sec. 11-202. Conditions of lot purchases.** All lots shall be sold subject to the rules and regulations of the cemetery.

(Amended: Ordinance No. 954 May 3, 2021)

**Sec. 11-203. Price of lots; charges.** The Council by motion or resolution shall determine the prices at which the various lots in the city cemeteries shall be sold and also the charges to be made by the City for interment, disinterment, and other services, if furnished.

(Previous Sections 11-203 and 11-204 were repealed and this section was renumbered from Section 11-205 by Ordinance No. 954 May 3, 2021)

**Sec. 11-204. Cemetery care fund.** Twenty-five percent (25%) of all lot sales shall be deposited in a cemetery care fund as provided by the laws of the state. The uses and restrictions placed on such fund shall be observed by the City and the statutes fully complied with.

(Renumbered from Section 11-206 by Ordinance No. 954 May 3, 2021.)

**Sec. 11-205. Traffic regulations.** All traffic laws of the City that are applicable to the operation of vehicles in a cemetery. No person shall:

1. Drive a vehicle in excess of fifteen (15) miles per hour on any cemetery road;
2. Drive off the established roads unless permission is given in writing to do so;
3. Make a U-turn on cemetery roads; and
4. Use a cemetery road as a public thoroughfare.

(Previous Sections 11-207 thru 11-209 were repealed and this section was amended and renumbered from Sec. 11-210 by Ordinance No. 954 May 3, 2021)

**Sec. 11-206. Penalty.** Any person who shall violate any provision of this chapter by doing any act prohibited or declared to be unlawful thereby, or declared to be an offense of misdemeanor thereby, or who shall fail to do any act required by any such provision, or who shall fail to do any act when an ordinance provision declares such failure to be unlawful or to be an offense or misdemeanor, shall be guilty of a misdemeanor; and upon conviction thereof, shall be punished as provided in this Code. Each day upon which any such violation continues shall constitute a separate offense.

(Previous Sections 11-211 thru 11-216 were repealed and this section was renumbered from Sec. 11-217 by Ordinance No. 954 May 3, 2021)

# Title 12

## PLANNING, ZONING AND DEVELOPMENT

### Chapter 1

#### PLANNING COMMISSION AND REGULATIONS

Sec. 12-101.	Metropolitan area planning commission created. . . . .	12.1
Sec. 12-102.	Zoning ordinance adopted. . . . .	12.1
Sec. 12-103.	Subdivision regulations adopted. . . . .	12.1
Sec. 12-104.	Violation; penalty. . . . .	12.1

**Sec. 12-101. Metropolitan area planning commission created.** There is hereby established, and declared the intent and purpose of the City to create jointly with the County, a Metropolitan Area Planning Commission as provided by the statutes of the State. The Mayor of the City is authorized and directed to act on behalf of the City as provided by law and to affix his signature to an agreement for this purpose jointly with the signatures of the county commissioners. The signatures, when affixed and properly attested, shall validate this sections and it shall become effective from that date, it being declared that with the validating signatures the intent of this section shall have been carried out.

**Sec. 12-102. Zoning ordinance adopted.** The City has adopted Ordinance No. 504, setting forth zoning regulations of the City, and all amendments thereto, as the City's zoning regulations. This zoning ordinance, and all amendments thereto, are hereby adopted and incorporated herein by reference and are applicable in the City as fully as if set out at length herein. A copy of the zoning ordinance and amendments are on file in the office of the City Clerk.

**Sec. 12-103. Subdivision regulations adopted.** The City has adopted Ordinance No. 502, setting forth subdivision regulations of the City, and all amendments thereto, as the City's subdivision regulations. The subdivision regulations ordinance, and all amendments thereto, are hereby adopted and incorporated herein by reference and are applicable in the City as fully as if set out at length herein. A copy of the subdivision regulations and amendments are on file in the office of the City Clerk.

**Sec. 12-104. Violation; penalty.** Any violation of the City's zoning or subdivision regulations, as set out in this Chapter, or failing to comply with such, shall be guilty of an offense, and on conviction thereof, shall be punished as provided in this Code. Each day that a violation continues shall constitute a separate offense.

### Chapter 2

#### MOBILE HOMES

Sec. 12-201.	Definitions. . . . .	12.2
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**Sec. 12-201. Definitions.** For the purpose of this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

- “Dependent mobile home” means a mobile home which does not have a flush toilet and a bath or shower. For purposes of regulation under this chapter, a dependent mobile home shall be considered to be the same as a travel trailer, unless otherwise specified;
- “Free-standing mobile home or travel trailer” means any mobile home or travel trailer not located in a mobile home park or travel trailer park or in an approved mobile home subdivision;
- “Health officer” means the legally designated health officer of the City or his authorized representative;
- “Independent mobile home” means a mobile home which has a flush toilet and a bath or shower. Unless otherwise indicated in the text of this Chapter, the term “mobile home” shall mean an independent mobile home as defined in this section;
- “Licensee” means any person licensed to operate and maintain a mobile home park under the provisions of this Chapter;
- “Mobile home” means a movable or portable dwelling consisting of one or more components or of two (2) or more units separately towable but designed to be joined into one integral unit designed for towing or transport on streets and highways on its own wheels, chassis or on flatbed or other trailers, both complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, skirting, connection to utilities and similar operations;
- “Mobile home park” means any plot of ground upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations;
- “Mobile home space” means a plot of ground within a mobile home park designed for the accommodation of one mobile home, and not located on a mobile home sales lot;
- “Mobile home subdivision” means a subdivision designed and intended for residential use where residence is in mobile homes exclusively, and where mobile home lots are sold for occupancy;
- “Nonresidential mobile trailer” means any vehicle having the basic characteristics of either a mobile home or travel trailer, but which is used for purposes other than residential and is not being offered for sale as indicated by a clearly displayed sign on or near the trailer;
- “Park” means a mobile home or travel trailer park;
- “Permittee” means any person to whom a temporary permit is issued to maintain or operate a mobile home park under the provisions of this Chapter;

“Person” means natural individual, firm, trust, partnership, association or corporation;

“Public water system or public sewer system” means any such system built and owned by, or dedicated to and accepted by the City; all other systems are private;

“Rural” means any area shown on the City area general plan for suburban or rural development and which is zoned agriculturally;

“Service building” means a building housing toilet and bathing facilities for men or women, and may also include buildings containing laundry facilities and other facilities;

“Subdivision” means mobile home subdivision, unless otherwise indicated;

“Travel trailer” or “trailer” means all vehicles and portable structures built on a chassis, designed as a temporary or permanent dwelling for travel, recreational, and vacation use not included in the definition of independent mobile homes. For purposes of regulation under this chapter, a dependent mobile home shall be considered to be the same as a travel trailer, unless otherwise specified;

“Trailer park” or “travel trailer park” means any plot of ground upon which two (2) or more travel trailers, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations; and

“Travel trailer space” means a plot of ground within a travel trailer park designed for accommodation of one travel trailer.

#### **Sec. 12-202. License and temporary permit.**

**A.** It is unlawful for any person to construct, maintain or operate any mobile home park or travel trailer park within the City unless he holds a valid license issued annually by the City Clerk with the approval of the health officer of the City, in the name of such person for the specific mobile home park, except that the maintenance or operation of a mobile home park or travel trailer park in existence on the effective date of this chapter may be continued under a temporary permit for such period of time and under such conditions as are hereinafter described.

**B.** Application shall be made to the health officer, who shall issue a license upon compliance by the applicant with all pertinent provisions of this and other ordinances and regulations of the City. Every person holding such a license shall notify the health officer in writing within twenty-four (24) hours after having sold, transferred, given away or otherwise disposed of, interest in or control of the person succeeding to the ownership or control of such mobile home park or travel trailer park.

**C.** Application for original licenses shall be in writing signed by the applicant and accompanied by an affidavit of the applicant as to the truth of the application, and shall contain the following:

1. Name and address of the applicant;
2. The interest of the applicant in and the location and legal description of the park;
3. A complete plan of the park showing compliance with all applicable provisions of this Chapter and regulations promulgated thereunder; and
4. Such further information as may be requested by the health officer.

**D.** Applications for renewals of licenses shall be made in writing by the holder of the license and shall contain the following:

1. Any change in the information submitted since the time the original license was issued or the latest renewal granted; and
2. Other information requested by the health officer.

**E.** A complete plan, as required by Paragraph 3 of Subsection C of this section for the purpose of obtaining a license to be issued, shall show:

1. The area and dimensions of the tract of land;
2. The number, locations, and size of all mobile home spaces or travel trailer spaces;
3. The location and width of roadways, walkways, buffer strips and recreational areas;
4. The locations of service buildings and other proposed structures;
5. The location and size of utility and treatment facilities; and
6. Plans and specifications of all buildings and other improvements constructed or to be constructed within the park.

**F.** Whenever the health officer finds conditions existing in violation of this Chapter, or of any regulation adopted pursuant thereto, he (or they) shall give notice in writing to the person to whom the license was issued that, unless such conditions or practices be corrected within a reasonable period of time specified in the notice, the license will be suspended. At the end of such period, not to exceed ninety (90) days, the inspection officer or health officer shall re-inspect such park, and if such conditions or practices have not been corrected, he shall suspend the license and give notice in writing of such suspension to the person to whom the license was issued. Upon receipt of notice of suspension such person shall cease operation of such park except as otherwise provided in this Chapter.

**G.** Any person whose permit has been denied, suspended, or who has received notice from the health officer that his permit will be suspended unless certain conditions or practices at the park are corrected, may request and shall be granted a hearing on the matter before the city health officer, provided that when no petition for such hearing shall have been filed within ten (10) days following the day on which notice of suspension was served, such license shall be deemed to have been automatically revoked at the expiration of such ten-day period.

**H.** Mobile home parks and travel parks in existence on February 14, 1961 which have concrete pads indicating the location of mobile home spaces or travel trailer spaces need not comply with those sections of this Chapter which would require the moving of concrete pads. They must, however, comply with all other requirements of this Chapter. In addition, any park expansion shall be in full compliance with provisions of this Chapter.

**I.** All applications shall be approved by the Council.

**Sec. 12-203. License fees and temporary permits, posting.**

**A.** The health officer shall charge and collect for each mobile home park or travel trailer park an initial license or temporary permit fee in such sum as set by the Council by motion or resolution. The initial license or temporary permit shall expire one year from the date of issue, unless renewed upon such conditions as the Council may by ordinance direct. No charge shall be made for renewals of licenses.

**B.** The license certificate or temporary permit shall be conspicuously posted in the office of or on the premises of the mobile home park or the travel trailer park at all times.

**Sec. 12-204. Inspection of mobile home and travel trailer parks.**

**A.** The health officer is hereby authorized and directed to make inspections to determine the condition of mobile home and travel trailer parks located within the City in order to perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public.

**B.** The health officer shall have the power to inspect the outside premises of private or public property for the purposes of inspecting and investigating conditions in relation to the enforcement of this Chapter or of regulations promulgated thereunder.

**C.** The health officer shall have the power to inspect any register containing a record of all mobile homes and occupants using the park.

**D.** It is the duty of every occupant of a park to give the owner thereof or his agent or employee access to any part of the mobile home park or travel trailer park or their premises at reasonable times for the purpose of making such repairs or alterations as are necessary to affect compliance with this chapter or with any lawful regulations adopted thereunder, or with any lawful order issued pursuant to the provisions of this chapter.

**Sec. 12-205. Notice, hearings and order.**

**A.** Whenever the health officer determines violations of this chapter or pertinent laws or ordinances exist, he shall notify the owner or his agent of the alleged violation. The notice shall:

1. Be in writing;
2. Include a statement of the reasons for its issuance;
3. Contain an outline of remedial action, which, if taken, will effect compliance with provisions of this chapter and other pertinent regulations;
4. Allow a reasonable time, not to exceed ninety (90) days, for the performance of any act it requires; and
5. Be served upon the owner or his agent as the case may require. The notice or order shall be deemed as properly served upon owner or agent when a copy thereof has been sent by certified mail to his last known address.

**B.** Any person affected by any notice issued under this Chapter or resulting regulation may request and shall be granted a hearing on the matter before the health officer. Such person shall file with the health officer a written request for such hearing and setting forth briefly the grounds for such request within ten (10) days following the day on which notice was served, a violation shall be deemed to have been automatically in existence at the expiration of the ten (10) day period. The filing of the request shall not stay the notice in cases of orders issued under this section. The hearing shall be held by the health officer at the earliest possible time.

**C.** After the hearing, the health officer shall compile the findings as to compliance with this chapter and pursuant regulations and shall issue an order in writing sustaining, modifying or withdrawing the prior notice which shall be served as provided in this section. Appeals from decisions of the health officer shall be to the district court.

**D.** Whenever the health officer finds that an emergency exists which requires immediate action to protect the public health, the health officer may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he may deem necessary to meet the emergency. Notwithstanding any other provisions of this chapter, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the health officer, shall be afforded a hearing as soon as possible.

**E.** Whenever the health officer finds conditions existing in violation of this Chapter, or of any regulation adopted pursuant thereto, the health officer shall give notice in writing to the person to whom the license was issued, that unless such conditions or practices be corrected within a reasonable period of time specified in the notice, the license will be suspended. At the end of such period, not to exceed ninety (90) days, the health officer shall re-inspect such park, and if such conditions or practices have not been corrected, the health officer shall suspend the license and give notice in writing of such suspension to the person to whom the license was issued. Upon receipt of notice of suspension, such person shall cease operation of such park except as provided in Subsection B of this section.

**Sec. 12-206. Free-standing Mobile Homes, Location.**

**A.** No free-standing mobile home or travel trailer shall be permitted in the City unless it is being offered for sale or parked for storage. Those free-standing mobile homes which are nonconforming uses under the provisions of this chapter may continue as nonconforming uses provided that they shall not be stored in front yards or on side yards abutting a street on corner lots.

**B.** Except for mobile homes or travel trailers within regular commercial mobile or travel trailer sales lots, each such free-standing mobile home or travel trailer offered for sale must be clearly marked as such, and shall not be occupied for either living or sleeping purposes. Free-standing mobile homes or travel trailers located within regular commercial mobile home or travel trailer sales lots need be neither individually marked for sale nor removed within one hundred and twenty days (120) if not sold. A property owner shall not store, not permit to be stored, more than one mobile home or travel trailer on a residential lot.

**C.** Free-standing mobile homes are permitted in the city's rural area, but only in agricultural zoning districts. Permits for free-standing mobile homes shall be issued by the inspection officer, but only when the applicant agrees, in writing, to remove the mobile home within one hundred and twenty (120) days after either the mobile home site is rezoned to a district other than agricultural or is abutted within six hundred and sixty (660) feet by districts other than agricultural. Such free-standing mobile homes must comply with all city regulations.

**D.** Mobile homes located in the residential district shall be considered as a single-family residential unit for permanent occupancy, and shall conform with all requirements of the district and all other regulations of this City.

**E.** No mobile home shall be permitted within the City unless it is in mobile home park as defined in this chapter or in a mobile home subdivision as defined by this Chapter, except as hereinafter provided:

1. Any person desiring to have a mobile home in the City in any area of the City other than a mobile home park or mobile home subdivision, may obtain so in the following manner and under the following conditions:
2. Contact the two (2) council members in the ward where the mobile home is to be placed and obtain a date for a hearing before the council on the granting of the nonconforming use;
3. Notify all persons who own property within three hundred (300) feet, exclusive of any city street or alley or other easement, of the property upon which the mobile home is to be placed, that it is intended that a mobile home be placed on said property and that a hearing will be held before the Council giving the date of hearing, and advising the property owners within three hundred (300) feet, exclusive of any city street or alley or other easement, that if they do not want a mobile home on said property they may appear at the hearing and state their objections. The notice herein required shall be by certified mail, return receipt requested and must be given not less than fifteen (15) days prior to the hearing date;
4. Attach a certificate from a licensed and bonded abstractor certifying the record owners of adjoining property to the application;
5. Place a public notice in a newspaper of general circulation within the city stating that a hearing will be held before the Council, giving the date of the hearing and the name of the party requesting same, and stating the purpose of the hearing; the notice must further state that if any resident of the City wishes to protest the granting of the nonconforming use requested, they may appear at the hearing and state their objection;
6. If no objections are made at the hearing by any person, the Council shall grant the nonconforming use requested unless in the judgment of the Council, the granting of the nonconforming use would substantially impair the character of the neighborhood;
7. Prior to the commencement of the hearing, the person having requested the hearing shall show proof of notice as required herein and such notice may not be waived for any reason; and
8. The nonconforming use permit issued by the Council, is for the sole use of the individual requesting the permit. It shall be granted, only, when the mobile home is to be used as the primary residence of the requesting individual. Any other use of the mobile home shall bring immediate termination of the nonconforming use permit and termination of all City utilities.



**F.** There shall be available to the public, in the office of the City Clerk, forms of notices which shall be deemed to comply with the provisions of Subsection E of this section as pertains to the giving of notice.

**Sec. 12-207. Nonresidential mobile trailers.**

**A.** No nonresidential mobile trailer shall be permitted in the City unless a license for its operation is issued by the inspection officer or health officer. Such license shall specify the permitted use of the nonresidential mobile trailer, the location of such operation and the termination date of the license. No license shall be issued for a use which would violate any city ordinance or state or federal law or regulation.

**B.** A quarterly fee of Twenty Dollars (\$20.00) shall be charged for each nonresidential mobile trailer license, which shall expire on January 31, April 30, July 31 or October 31 of each year, and be renewable on the first day of each succeeding quarter thereafter.

**C.** Operation of nonresidential trailers by contractors on construction projects for which building permits have been issued or which are otherwise approved by governmental units is permitted during the term of such construction project without issuance of a permit.

**D.** This section shall not be construed as permitting or authorizing the permanent location of any nonresidential mobile trailer in the city.

**Sec. 12-208. Location, space and general layout of mobile home parks and travel trailer parks.**

**A.** Parks shall be of three (3) types:

1. Mobile home parks;
2. Travel trailer parks; and
3. Mixed mobile home and travel trailer parks.

**B.** No dependent travel trailer shall be located in a mobile home park and used for occupancy. In a mixed park, separate areas shall be reserved for mobile homes and for travel trailers; no mobile home shall be permitted in the travel trailer sector, and no travel trailer shall be permitted in the mobile home sector.

**C.** The mobile home park shall be located on a well-drained site, and shall be so located that its drainage will not endanger any water supply. All such mobile home parks shall be in areas free from marshes, swamps, or other potential breeding places for insects or rodents.

**D.** The area of the mobile home park shall be large enough to accommodate:

1. The designated number of mobile home spaces;
2. Necessary streets and roadways; and
3. Parking areas for motor vehicles.

**E.** It is unlawful to locate a mobile home less than twenty-five (25) feet from any public street or highway, or so that any part of such mobile home will obstruct any roadway or walkway in a mobile home park.

**F.** It is unlawful to allow:

1. Any mobile home to be occupied in a mobile home park unless the mobile home is situated on a mobile home space; or
2. An independent mobile home to be located on a dependent mobile home space.

**G.** The minimum area of any park shall be two (2) acres. However, parks in existence on February 14, 1961 may continue to operate with less than two (2) acres, but, if the park is to be expanded, it must at that time have a minimum area of two (2) acres.

**H.** Intensity of development shall be limited to no more than ten (10) mobile homes per gross acre for a mobile home park and no more than fifteen (15) travel trailers per gross acre for a travel trailer park. Area used for sewerage treatment facilities shall not be included in density computations. Mobile home spaces shall be at least thirty (30) feet wide where pads are closest to driveways. Travel trailer spaces shall be at least twenty-five (25) feet wide where travel trailers are located close to the driveway.

**I.** All mobile home spaces and travel trailer space shall be clearly defined. Mobile homes and travel trailers shall be parked in such spaces that at the nearest point they shall be twenty-five (25) feet from the service road, ten (10) feet from the rear lot line, and at least twenty (20) feet from any other mobile home or travel trailer.

**J.** All mobile home spaces shall abut upon a sealed surface driveway of not less than twenty (20) feet in width if on-street parking is prohibited, and twenty-six (26) feet in width if on-street parking is permitted on one side of the street only. Driveways must have unobstructed access to a public street or highway.

1. In mobile home parks or travel trailer parks in existence on February 14, 1961 parking on or adjacent to street within the park is permissible so long as it does not obstruct free movements of traffic. Whether or not a safety hazard exists is a question to be determined by the Council. If it is determined by the council that a safety hazard does in fact exist, the mobile home park or travel trailer park concerned shall be required to comply with paragraph 2 of this subsection; and

2. In new mobile home parks, at least two (2) clearly defined parking spaces will be provided for each mobile home space either on or adjacent to the mobile home space. In new travel trailer parks, at least one parking space shall be provided for each space either on or adjacent to the space.

**K.** Outside drying spaces or other clothes drying facilities shall be provided in every mobile home park or travel trailer park. Mobile home parks shall have at least one hundred (100) linear feet of clothes drying line or one mechanical clothes drying unit in good condition; mechanical units shall be located in a service building. Travel trailer parks and mixed parks shall have at least twenty-five (25) linear feet of outdoor clothes drying line for each travel trailer space or one mechanical clothes drying unit for the first ten (10) travel trailer spaces, or any fraction thereof, and an additional unit for each ten (10) additional trailer spaces or fraction thereof.

**L.** All driveways and walkways within a park shall be at least asphalt-oil-rock sealed surface.

**M.** New mobile home parks in the City should abut, and have their major means of ingress and egress on at least a secondary thoroughfare. Travel trailer parks and mixed parks in the City should abut and have their major means of ingress and egress on at least a primary thoroughfare.

**N.** All mobile home parks shall provide a suitable screening of landscaping, and also opaque fencing shall be installed where abutting existing single-family residential areas.

**Sec. 12-209. Service building for travel trailer parks.**

**A.** Each travel trailer park shall be provided with at least one service building adequately equipped with flush-type toilet fixtures and other sanitary facilities as required in this Chapter. No service building shall contain less than one toilet for females, one toilet for males, one lavatory and shower or bathtub for each sex, and one laundry tray. All sanitary facilities required by Chapter shall be located in service buildings.

**B.** Each park accommodating travel trailers shall provide the following:

1. Toilet facilities for males shall consist of not less than two (2) flush toilets and one urinal for the first ten (10) travel trailers or fraction thereof, and for travel trailers in excess of ten (10), not less than one additional flush toilet and one additional urinal for every ten (10) additional travel trailers or fractional number thereof;

2. Toilet facilities for females shall consist of not less than two (2) flush toilets for the first six (6) travel trailer spaces or any less number thereof, and for travel trailer spaces in excess of six (6), not less than one additional flush toilet for every ten (10) additional travel trailer spaces or fractional number thereof in excess of six (6);

3. Each sex shall be provided with not less than two (2) lavatories and two (2) showers or bathtubs with individual dressing accommodations for the first ten (10) travel trailer spaces or any less number thereof, and for travel trailer spaces in excess of ten (10), not less than one additional lavatory and one additional shower or bathtub with individual dressing accommodations for every ten (10) additional travel trailer spaces or fractional number thereof;

4. Each toilet for females and each shower or bathtub with individual dressing accommodations for females shall be in a private compartment or stall;

5. The toilet and other sanitation facilities for males and females shall either be separate buildings or shall be separate, if in the same building, by a soundproof wall; and

6. There shall be provided in a separate compartment or stall not less than one flush toilet bowl receptacle for emptying bed pans and other containers of human excreta or a slop sink with at least a three (3) inch trap and an adequate supply of hot running water for cleansing such bed pans or containers;

C. Travel trailer spaces shall not be more than two hundred (200) feet from a service building.

D. Service buildings shall:

1. Be located twenty-five (25) feet or more from any travel trailer space;

2. Be of permanent construction, and be adequately lighted;

3. Be of moisture-resistant material, to permit frequent washing and cleansing;

4. Have adequate heating facilities to maintain a temperature of seventy degrees (70°) Fahrenheit during cold weather, and to supply adequate hot water during time of peak demands; and

5. Have all rooms well ventilated, with all openings effectively screened.

E. Laundry facilities shall be provided in the ratio of one laundry unit to every thirty (30) travel trailer spaces and shall be in a separate soundproof room of a service building or in a separate building. A laundry shall consist of not less than one clothes washing machine and one clothes drying machine.

F. All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a menace.

#### **Sec. 12-210. Sewage disposal for mobile home parks.**

A. All plumbing in the mobile home park shall comply with state and local plumbing laws and regulations.

B. Waste from showers, bathtubs, flush toilets, urinals, lavatories, slop sinks and laundries in service and other buildings within the park, shall be discharged into a public sewer and disposal plant, septic tank system or private sewer and lagoon system of such construction and in such manner as approved by the Oklahoma State Health Department and in accordance with all applicable ordinances of the City.

C. Each mobile home space shall be provided with at least four (4) inch sewer connection at least four (4) inches above the surface of the ground. The sewer connection should be protected by a concrete collar of at least four (4) inches thick and have a minimum outside diameter of twenty-four (24) inches. The sewer connection shall be fitted with a standard ferrule and close nipple and provided with a screw cap. Connection between the mobile home drain and the sewer must be water-

tight and self-draining. Mobile homes with fixtures from which back siphonage may occur shall not be connected to the park's water system until the defect has been corrected.

**D.** In the event that a public sewer system is or become available within three hundred (300) feet of a mobile home park or travel trailer park, connection must be made to the public system within one hundred eighty (180) days.

**E.** Where the sewer lines of the mobile home park are not connected to a public sewer, a method of sewage disposal approved by the health officer shall be provided. The design of such sewage treatment facilities shall be based on the maximum capacity of the mobile home park. Effluents from sewage treatment facilities shall not be discharge into any waters of the state except with prior approval of the appropriate state authority and the local health officer. The disposal facilities shall be located where they will not create a nuisance or health hazard to the mobile home park or to the owner or occupants of any adjacent property. The approval of the health officer shall be obtained on the type of treatment proposed and on the design of the disposal plant prior to construction.

**F.** Every mobile home occupying a mobile home park space shall tie into the park sewerage system and shall dump any accumulate waste into a receptacle provided in the travel trailer park upon entering and upon leaving the park. Such receptacles must be approved by the Oklahoma State Department of Health. Any other dump of accumulated waste within the City is prohibited.

**G.** The monthly sewerage charge shall be based on the maximum mobile home or travel trailer capacity of the park. The park operator shall, by the tenth of each month, notify the City Clerk of the maximum number of mobile home spaces in use at any one time during the previous month. The City Clerk shall then adjust the sewerage fee to the actual use of the park. Should the park operator fail to notify the City Clerk of the prior month's actual usage of trailer or mobile home spaces, the sewerage fee shall be levied on the maximum capacity of the park.

**H.** Sewer connections shall be water-tight. Park licensees shall maintain trailer and mobile home connections to sewer and water systems in good condition and be responsible that there is no sewerage or water leakage on the park premises.

**Sec. 12-211. Water supply for mobile home parks.**

**A.** An accessible, adequate, safe, and potable supply of water shall be provided in each mobile home park, capable of furnishing a minimum of one hundred fifty (150) gallons per day per mobile home space. The development of an independent water supply to serve the mobile home park shall be made only after express approval has been granted by the health officer. Where a public supply of water of such quality is available, connection shall be made thereto and its supply shall be used exclusively.

**B.** The water system of the mobile home park shall be connected by pipes to all buildings and all mobile home spaces.

**C.** All water piping shall be constructed and maintained in accordance with state and local law. The water piping system shall not be connected with non-potable or questionable water supplies and shall be protected against the hazards of back flow or back-siphonage.

**D.** Where drinking fountains are provided for public use, they shall be of a type and in locations approved by the health officer.

**E.** Individual water service connections which are provided for direct use by mobile homes shall be so constructed that they will not be damaged by the parking of such mobile homes. The mobile home park water system shall be adequate to provide twenty (20) pounds per square inch of pressure at all mobile home connections.

**F.** Where an independent or non-public water system is used to serve the mobile home park with water obtained from wells, the wells shall have been approved by the health officer and shall have been drilled or driven. Springs or other sources of supply shall not be used unless approved by the health officer.

**G.** Every well shall be located and constructed in such manner that neither underground nor surface contamination will reach the water supply from any source. A minimum distance of one hundred fifty (150) feet shall be maintained between the water supply and any cesspool. A minimum distance of one hundred (100) feet shall be maintained between the water supply and any other possible source of contamination, except that sewers or pipes through which sewage may back up shall be located at least fifty (50) feet from any well or water suction pipeline. Where such sewers or pipes are specially constructed to provide adequate safeguards, and when specifically authorized by the health officer, such sewers or pipes through which sewage may back up may be closer than fifty (50) feet, but not less than thirty (30) feet from a well.

**H.** No well casings, pumps, pumping machinery, or suction pipes shall be located in any pit, room, or space extending below ground level, nor in any room or space above ground which is walled in or otherwise enclosed, unless such rooms, whether above or below ground, have free drainage by gravity to the surface of the ground. The floor or rooms above ground shall be at least six (6) inches above the ground's surface. All floors shall be watertight, and sloped from the pump pedestal to the drain. The pedestal shall be not less than twelve (12) inches above the floor.

**I.** All water storage reservoirs shall be watertight, and constructed of impervious material. All overflows and vents of such reservoirs shall be effectively screened. Open reservoirs are prohibited. Manholes shall be constructed with overlapping covers, so as to prevent the entrance of contaminated material. Overflow pipes from a reservoir shall not connect to any pipe in which sewage or polluted water may back up.

**J.** Underground stop and waste cocks shall not be installed on any connection.

**K.** No water well shall draw water from any sands reserved to the City for its use except as may be otherwise permitted by ordinances of the City.

**Sec. 12-212. Refuse disposal for mobile home parks.**

**A.** The storage, collection and disposal of refuse in the park shall be so managed as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

**B.** All refuse shall be stored in fly-tight, water-tight, rodent-proof containers, which shall be located within one hundred and fifty (150) feet of any mobile home space or travel trailer space. Containers shall be so provided in sufficient numbers and capacity to properly store all refuse.

**C.** Racks or holders shall be provided for all refuse containers. Such container racks or holders shall be so designed as to prevent containers from being tipped to minimize spillage and container deterioration and to facilitate cleaning around them. Lids for containers shall be permanently connected to racks or holders with chains or other flexible materials.

**D.** All refuse shall be collected by the city as all other refuse. Where suitable garbage collection is not available from municipal or private agencies, the mobile home park operator shall either employ a private agency or provide this service. All refuse shall be collected and transported in covered vehicles or covered containers.

**E.** Where municipal or other private disposal service is not available, the mobile home park operator shall dispose of the refuse by burial, or transporting to an approved disposal site, as directed by the health officer. Refuse shall be buried only at locations and by methods approved by the health officer and in accordance with the ordinances of the City.

**F.** When municipal refuse disposal service is available it must be used.

**Sec. 12-213. Insect and rodent control.**

**A.** Insect and rodent control measures to safeguard public health as required by the inspection officer or health officer shall be applied in the mobile home park or travel trailer park.

**B.** Effective larvicidal solutions may be required by the inspection officer or health officer for fly or mosquito breeding areas which cannot be controlled by other, more permanent measures.

C. The health officer may require the park operator to take suitable measures to control other insects and obnoxious weeds.

D. Accumulations of debris which may provide harborage for rodents shall not be permitted in the mobile home park.

E. When rats or other objectionable rodents are known to be in the park, the park operator shall take definite action, as directed by the inspection officer or health officer to exterminate them.

**Sec. 12-214. Electricity; exterior lighting.**

A. An electrical outlet supplying at least one hundred (100) amperes shall be provided for each mobile home space. The installation shall comply with all applicable state and local electrical codes and ordinances. Such electrical outlets and extension lines shall be grounded and weatherproofed. Plug receptacles shall also be grounded and weatherproofed. No power supply line shall be permitted to lie on the ground, and no main power line shall be suspended less than eighteen (18) feet above the ground, unless otherwise approved by the health officer.

B. Public streets and driveways within mobile home and travel trailer parks shall be lighted with street lights meeting the current standards of the Illuminating Engineering Society or one-half candlepower, whichever is higher.

**Sec. 12-215. Piping.** All piping from outside fuel storage tanks or cylinders to mobile homes shall be of acceptable material as determined by the inspection officer and shall be permanently installed and securely fastened in place. All fuel storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath the mobile home or less than five (5) feet from any mobile home exit.

**Sec. 12-216. Park areas; water; fires.**

A. The mobile home park area shall be subject to the rules and regulations of the City fire prevention authority.

B. Mobile home park areas shall be kept free of litter, rubbish, and other flammable materials.

C. Portable fire extinguishers of a type approved by the fire prevention authority shall be kept in service buildings and at all other locations designated by such fire prevention authority and shall be maintained in good operating condition.

D. Where the water supply system does not provide at least six (6) inch water main, there shall be provided a two (2) inch frost protected water riser within three hundred (300) feet of each mobile home or building.

E. Fires shall be made only in stoves, incinerators, and other equipment intended for such purposes.

**Sec. 12-217. Alterations and additions.**

A. All plumbing and electrical alterations or repairs in the mobile home park shall be made in accordance with applicable local regulations.

B. Skirting of mobile homes is permissible but areas enclosed by such skirting shall be maintained so as not to provide a harborage for rodents or create a fire hazard.

C. A permit issued by the inspection officer shall be required before any construction on a mobile home space or any structural addition or alteration to the exterior of a mobile home takes place. No construction or addition or alteration to the exterior of a mobile home located in a mobile home park shall be permitted unless of the same type of construction or materials as the mobile home affected. All such construction, additions, or alterations shall be in compliance with applicable local and state laws. No permit shall be required for the addition of steps, canopies, awning, or antennas.

D. No structure other than a mobile home shall be permitted on a mobile home space except that one structure is not to exceed two hundred ten (210) cubic feet to be used for storage on each space.

**Sec. 12-218. Registration of owners and occupants.**

**A.** Each licensee or permittee shall keep a register containing a record of all mobile home and travel trailer owners and occupants located within the park. The register shall contain the following information:

1. The name and address of the owner or occupant of each mobile home and motor vehicle by which it is towed;
2. The make, model, year and license of each mobile home and motor vehicle;
3. The state, territory or country issuing such license;
4. The date of arrival and of departure of each mobile home;
5. Whether or not each mobile home is a dependent or independent mobile home;
6. Each mobile home or travel trailer shall be identified while in a park space by some clear, legible and orderly external method of identification or numbering system.

**B.** The park shall keep the register available for inspection at all times by law enforcement officers, public health officials, City officials, and other officials whose duties necessitate acquisition of the information contained in the register. The register record of each occupant registered shall not be destroyed for a period of one year following the date of departure of the registrant from the park.

**Sec. 12-219. Wrecked or damaged homes, trailers.** Wrecked, damaged or dilapidated mobile homes and travel trailers shall not be kept or stored in a mobile home park or travel trailer park. The health officer shall determine if a mobile home or travel trailer is damaged or dilapidated to a point which makes the mobile home or travel trailer unfit for human occupancy on either a temporary or permanent basis. Whenever such a determination is made, the mobile home or travel trailer shall be vacated and removed from the premises.

**Sec. 12-220. Minimum housing regulations for mobile homes.**

**A.** Every mobile home located in either a mobile home park, a mobile home subdivision, or as a free-standing mobile home, shall meet the provisions of the housing code of the City except as may be otherwise provided in this section.

**B.** Every mobile home shall contain the following minimum gross floor area or habitable space:

1. One hundred fifty (150) square feet for one or two (2) occupants;
2. One hundred (100) square feet for a third occupant; and
3. Eighty (80) square feet additional for each occupant thereafter.

**C.** Habitable space in a mobile home shall have a minimum ceiling height of seven (7) feet over fifty percent (50%) of the floor area; and the floor area where the ceiling height is less than five (5) feet shall not be considered in computing the minimum gross floor area.

**D.** A mobile home shall have a safe and unobstructed primary exit and an emergency exit located from the primary exit.

**E.** Rooms occupied for sleeping purposes must contain at least sixty (60) square feet of floor space if used by more than one person and at least forty (40) square feet if used by one person.

**F.** Dependent mobile homes shall not be required to have flush toilet or a bath or shower.

**G.** The housing code shall not apply to travel trailers insofar as floor area, flush toilet, bath or shower, or ceiling height is concerned.

**Sec. 12-221. Mobile home subdivisions.**

**A.** The minimum size of mobile home subdivision shall be ten (10) acres.

**B.** No residences except mobile homes shall be permitted in a mobile home subdivision.

**C.** Minimum effective lot width in a mobile home subdivision shall be forty (40) feet measured at the front building line and minimum lot areas shall be four thousand (4,000) square feet provided that at least a five (5) foot side yard shall be provided on each lot beyond any mobile home and additions thereto, and further provided that in areas not serviced by a public sewer, the minimum additional lot area shall be determined by the health officer on the basis of safe and sanitary sewer service. The effective lot width of a mobile home shall be determined, for interior lots, by measuring at right angles across the lot from one diagonal side line to the other, and for corner lots, the measurements shall be made at right angles from the diagonal having the greatest divergence from perpendicular to the street, through the midpoint of the rear line of the required front yard, to the opposite lot line or an extension thereof.

**D.** Side lines of lots in mobile home subdivisions need not be at right angles to straight street lines or radial to curved street lines.

**E.** Regardless of the effective lot width, mobile home subdivision lots must abut a public street for at least twenty-five (25) feet.

**F.** All mobile home subdivisions shall have a greenbelt planting strip not less than twenty (20) feet in width along all subdivision boundaries. Such greenbelt shall be composed of one row of deciduous and/or evergreen trees, spaced not more than forty (40) feet apart and not less than three (3) rows of shrubs spaced not more than eight (8) feet apart and which grow to a height of five (5) feet or more after one full growing season and which shrubs will eventually grow to a height of not less than twelve (12) feet.

**G.** Mobile home subdivisions shall comply with the subdivisions ordinance and the zoning ordinance of the city, except as otherwise provided.

**Sec. 12-222. Supervision.** The licensee or permittee, or a duly authorized attendant or caretaker, shall be in charge at all times to keep the mobile home park, its facilities and equipment in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with the licensee or permittee, for the violation of any provision of this Chapter to which the licensee or permittee is subject.



# Title 13

## PUBLIC SAFETY

### Chapter 1

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#### Article A

##### FIRE DEPARTMENT

Sec. 13-101.	Fire department, chief. . . . .	13.1
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**Sec. 13-101. Fire department, chief.** There shall be a fire department, the head of which shall be the chief of the fire department. The chief of the fire department shall be an officer of the City and shall have supervision and control of the fire department. There shall be such additional firefighters as may be authorized. All firefighters shall be officers of the City. It is the duty of the fire department to extinguish fires; to rescue persons endangered by fire; to resuscitate, and to administer first aid to, persons injured in or about burning structures, or elsewhere in case of an emergency; to promote fire prevention; and unless otherwise provided, to enforce all ordinances relating to fires, fire prevention, and safety of persons from fire and explosions in theaters, stores, and other public buildings.

**Sec. 13-102. Duties of the fire chief.** The chief shall be at the head of the department, subject to the laws of the state, ordinances of the City, and the rules and regulations adopted in this Chapter. The chief shall have the following powers and duties:

1. The chief shall be responsible for the general conditions and efficient operations of the department, the training of members, and the performance of all other duties imposed upon him;

2. The chief may inspect or cause to be inspected by members of the department, the fire hydrants, cistern and other sources of water supply at least twice each year;
3. The chief shall maintain a library or file of publications on fire prevention and fire protection and shall make use of it to the best advantage of all members;
4. The chief shall make every effort to attend all fires and direct the officers and members in the performance of their duties;
5. The chief shall see that the citizens are kept informed on fire hazards in the community and on the activities of the department;
6. The chief shall see that each fire is carefully investigated to determine its cause, and in the case of suspicion of incendiarism shall notify proper authorities and secure and preserve all possible evidence for future use in the case;
7. The chief, or such firefighter or firefighters as he shall designate, is authorized to enter any building or premise in the City at any reasonable hour for the purpose of making inspections and to serve written notice on the owners or occupants to correct any hazards or violations that may be found; and
8. The chief shall see that complete records are kept of all fires, inspections, apparatus and equipment, personnel and other information of the department and shall make reports to the City Superintendent as he may require.

**Sec. 13-103. Duties of the assistant chief.** In the absence of the chief, the assistant chief on duty shall command the department and be held responsible therefore in all respects with the full powers and responsibilities of the chief.

**Sec. 13-104. Use of fire equipment, inventory and repair.**

- A. No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any articles used in any way by the department. No person shall enter any place where fire apparatus is housed or handle any equipment belonging to the department unless accompanied by, or having the special permission of, an officer or authorized member of the department.
- B. The chief shall prepare and keep a complete inventory of all property belonging to the fire department, and shall at the expiration of his term turn over such inventory and all such property to his successor, together with all books, records, reports and data of the department.

## Article B

### VOLUNTEER DEPARTMENT

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**Sec. 13-111. Volunteer department, company officers.** The company officers of the volunteer department shall be selected upon their ability to meet the following requirements:

1. Their knowledge of fire fighting;
2. Their leadership ability; and
3. Their knowledge of fire fighting equipment.

**Sec. 13-112. Secretary-treasurer.** One member elected by the fire department shall be secretary-treasurer. His duties shall consist of the following:

- 1. Calling the roll of the opening of each meeting;
- 2. Keeping the minutes of each meeting; and
- 3. Collecting any money due the department by the members.

**Sec. 13-113. New members.**

- A.** All new members shall be on probation for one year after their appointment. New probationary members shall be recommended by majority of members of the volunteer fire department.
- B.** New volunteer members upon completion of their probation period must be approved by the majority of the volunteer members of the fire department.

**Sec. 13-114. Rules and regulations.** The volunteer fire department shall be subject to the following rules and regulations which shall be incorporated in the by-laws of the department:

- 1. A volunteer fire fighter is required, when notified, to respond to alarms of fire and other emergencies;
- 2. A volunteer fire fighter is required to be present at regular meetings, call meetings and schools presented for the benefit of the fire fighters;
- 3. There shall be at least one regular business meeting each month;
- 4. Any volunteer fire fighter having two (2) unexcused absences in succession or three (3) unexcused absences in a period of three (3) months will be dropped from the fire department rolls;
- 5. Volunteer fire fighters leaving the City for an extended period of time will be required to notify the chief;
- 6. Any volunteer fire fighter refusing to attend training classes provided for him will be dropped; and
- 7. Any volunteer member of the fire department shall be dropped from the rolls for the following offenses:
  - a. Conduct unbecoming a fire fighter;
  - b. Any act of insubordination;
  - c. Neglect of duty;
  - d. Any violation of rules and regulations governing the fire department; or
  - e. Conviction of a felony.

**Sec. 13-115. Other rules and regulations.** The Council, by motion or resolution, may adopt and amend the regulations governing the fire department as deemed necessary.

## Article C

### CALLS OUTSIDE CITY

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**Sec. 13-121. Fire Service Territory.**

**A.** The corporate limits of the City is hereby established as the fire service territory of the City.

**B.** That the City is authorized to provide service outside the existing municipal limits upon approval of a written annual agreement with the County, by agreement with individual property owners, or through such other fee arrangement as has been approved by the governing body.

**Sec. 13-122. Contract terms, fees for service.** Any contract entered into by the City with an individual owner, firm, private corporation, association, or political subdivision for outside aid, or mutual aid for fire protection, shall provide for the payment by the owner, firm, private corporation, association, or political subdivision to the City for such fire apparatus and personnel at a rate as set by the Council. All monies received from the calls shall go into the general fund or fire pension fund, all as may be directed by the Council.

**Sec. 13-123. Authority to answer calls.** The fire department of the City is hereby authorized and directed to answer all calls within five (5) miles outside the city limits, unless in the opinion of the fire chief it is inexpedient to do so because of another fire in the city, broken apparatus, impassable or dangerous highways, or other conditions.

**Sec. 13-124. Firefighters serving in regular line of duty.** All firefighters of the fire department of the city attending and serving at fires or doing fire prevention work outside the corporate limits of the City, as herein provided, shall be considered as serving in their regular line of duty as fully as if they were serving within the corporate limits of the City. The firefighters shall be entitled to all the benefits of any firemen's pension and relief fund in the same manner as if the fire fighting or fire prevention work was being done within the corporate limits of the City.

**Sec. 13-125. Department considered agent of state.** The fire department of the City answering any fire alarm, or call, or performing any fire prevention services outside the corporate limits of the City shall be considered as an agent of the state, and acting solely and alone in a governmental capacity, and the municipality shall not be liable in damages for any act of commission, omission, or negligence while answering or returning from any fire, or reported fire, or doing any fire prevention work under and by virtue of this article.

## Chapter 2

### POLICE DEPARTMENT AND SERVICES

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## Article A

### POLICE DEPARTMENT

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**Sec. 13-201. Police department created, chief.** There is a police department, the head of which is the chief of police, who is the City Marshal, elected as provided in Code. The chief of police is an officer of the City, and has supervision and control of the police department. All police officers are officers of the City.

**Sec. 13-202. Duties.** It is the duty of the police department to apprehend and arrest on view or on warrant and bring to justice all violators of the ordinances of the City; to suppress all riots, affrays, and unlawful assemblies which may come to their knowledge, and generally to keep the peace; to serve all warrants, writs, executions, and other processes properly directed and delivered to them; to apprehend and arrest persons violating federal or state law as provided by law, and to turn them over to proper authorities; and in all respects to perform all duties pertaining to the offices of police officers.

**Sec. 13-203. Police officers.** Police officers shall perform such duties as shall be required of them by the chief of police, city ordinances, federal, state and county regulations and any other actions required in the maintenance of good order and public peace. Employees or officers as deemed necessary shall be appointed by the Mayor.

**Sec. 13-204. Emergency duties in other cities.**

**A.** Approval is hereby given for service of members of the regular police department of this City as police officers of any other city or town, in an emergency situation, in the state, not more than one hundred (100) miles distant from this City, when such service is requested by the Mayor or chief of police of the City or town.

**B.** Requests for service under this section shall be made by writing or by telephone, or other means of communications, to the Mayor and, in his absence, the police chief, who, if he determines that the request can be granted consistently with the continuance of the proper police protection to the inhabitants of this City, and after consultation with the chief of police, shall direct the chief of police to furnish the number of officers requested and to arrange their transportation to the requesting municipality.

## Article B

### RESERVE POLICE FORCE

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**Sec. 13-211. Reserve force established.**

**A.** The police reserve shall consist of fifteen (15) members or as many as the chief of police may deem necessary. The officers shall consist of one captain, one first lieutenant, one second lieutenant and one sergeant. The captain shall be appointed by and shall serve at the pleasure of the police chief. All other officers will be appointed by the reserve captain. The captain shall have the authority to divest any officer's rank for cause or disciplinary measures.

**B.** Before being commissioned into the city police reserve, an applicant must be recommended by the board of directors and approved by the reserve captain and the chief of police.

**C.** Any member of the police reserve may be suspended by the captain of the reserves or the police chief for cause. Cause, for the purpose of this chapter, shall be defined in the handbook for employees of the City, together with those rules hereinafter enumerated in this chapter.

**D.** Should a member be suspended, he may request a hearing by the police reserve board of directors. Such request must be made in writing within five (5) days of suspension and presented to the reserve captain.

**Sec. 13-212. Reserve board of directors.** The reserve police board of directors shall consist of five (5) members. These members will include the Mayor, two (2) city council members, the police chief, and the reserve captain. The Mayor shall be the chairman and shall preside at all meetings. Any actions taken by the board must carry by a majority vote.

**Sec. 13-213. Powers.** A police reserve officer shall have the power, as authorized by state law, to arrest any offender of and against the laws of the State or the City, by day or night. However, it shall be the policy of the police reserves to make arrests only while specifically on duty as a reserve officer.

**Sec. 13-214. Regulations.**

**A.** The chain of command shall be as follows:

1. The chief of police;
2. The reserve captain;
3. The first lieutenant;
4. The second lieutenant; and
5. Sergeant.

**B.** The chief of police will be in full command of the police reserves and its members at all times.

**C.** All members are required, when notified, to attend regular and special meetings.

**D.** Insubordination shall constitute disciplinary action and probably dismissal from the police reserve.

**E.** Once a reserve officer is assigned to duty, he will not leave the duty without the relief of another reserve officer or permission from the ranking officer on duty.

**F.** Consuming any type of alcoholic beverages or illegal drugs while on duty or in uniform is strictly forbidden and will constitute immediate dismissal.

**G.** Should a member be called for duty and is or has been consuming alcoholic beverages or drugs within the preceding four (4) hours, the member will not accept that duty.

**H.** While on duty or off duty, a member will conduct himself in such a manner that will not degrade the City, the police department or the police reserve in any manner.

**I.** Addiction to drugs or alcoholic beverages is grounds for dismissal.

**J.** Personal appearance and attitude toward the public will be of the utmost importance at all times. The uniform shall be clean and pressed at all times, and equipment will be in good working order. Members must be clean shaven.

**K.** Should health become a determining factor to any member in performing his duties, he may be retained as a member but put on an inactive list.

**L.** Any member involved in any type of publicity that is detrimental to the reserves will be subject to disciplinary action.

**M.** All new applicants will be placed on a ninety (90) day probationary period and will attend regular training sessions. New applicants will not be required to purchase uniforms until the probationary period is ended.

**N.** Any applicant that may have a conflicting interest (i.e. liquor store owner, bartender, bondsman, tow truck operators, sheriff's reserve, employee of the sheriff's department, member of another police reserve) shall not be considered for membership in the police reserve.

**O.** Anyone not in compliance with the dress code adopted by the board of directors will be dismissed from duty until the problem is corrected. Violations of any of the regulations herein will not be tolerated.

**P.** Each reserve member shall be prepared to serve at least ten (10) hours per month.

**Q.** On termination of membership, all equipment shall be returned to the reserve captain within twenty-four (24) hours.

**R.** There shall be at least one business meeting per month. Special meetings will be called as needed.

**S.** Any member having three (3) consecutive unexcused absences may, at the option of the captain, be dropped from the reserves.

**T.** Each member should participate in special functions and assist the police department when called upon if at all possible. Members should have a good reason not to do so. After three (3) consecutive refusals or five (5) refusals in one year will mean dismissal. A warning will be given after each refusal.

**U.** Misconduct violations will be handled according to the rules and regulations in the City handbook, this Code or applicable state law.

**V.** Members of the reserves shall not drink alcoholic beverages or behave in a disorderly manner within the City while in uniform or on duty.

**Sec. 13-215. Equipment issued by City.** All items issued to the police reserve shall remain the property of the City. Each member shall be held responsible for his issue. Loss or theft of same shall be reported to the captain immediately.

**Sec. 13-216. Requirements to be met by reserve officers.**

**A.** Any new applicant shall:

1. Be required to go before a review board for review;
2. Be required to bring a statement of health from his doctor at his own expense;
3. Be required to take and pass a physical agility test;
4. Go through reserve officer school and be certified by the state within one year from their appointment to the police reserve at his own expense;
5. Sign a release of liability releasing the City and the police reserve of liability for injuries or accidents while taking the physical agility test; and
6. Successfully complete an MMPI.

**B.** New members should not buy uniforms or equipment until they have passed the physical agility test and have been cleared through the application check list.

**C.** Members are required to furnish their own uniforms and equipment.

D. The police reserve and the City shall furnish one badge and one set of collar brass, which will be returned at time of resignation or termination.

**Sec. 13-217. Agility test.**

A. The physical agility test will consist of:

1. A run around a three-tenths (0.3) mile track with three (3) hurdles two (2) hay bales high on the track;
2. A set of tires staggered at the end of the track to go through; and
3. Pushing a vehicle off the street onto the shoulder without any help.

The time limit in which the course must be completed is two (2) minutes thirty (30) seconds. There will be four (4) seconds docked off the total time for each hurdle missed.

B. Members who have two (2) or more consecutive years of service shall not be required to take the physical agility test.

**Sec. 13-218. Rules.** The rules of requirements stated in this Chapter may have an exception or change by the review board or the captain of the reserve or the chief of police.

## Chapter 3

### CIVIL DEFENSE

Sec. 13-301.	Purpose of civil defense organization. . . . .	13.8
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Sec. 13-305.	Emergency powers and duties. . . . .	13.9

**Sec. 13-301. Purpose of civil defense organization.** The purpose of this Chapter is to create a civil defense organization for the City to be prepared for and to function in the event of emergencies endangering the lives and property of the people of such City. The duty of such civil defense organization shall be the protection of the lives and health of the citizens of the City and of property rights, both private and public, and to perform all functions necessary and incident thereto.

**Sec. 13-302. Office of civil defense created, director.** There is hereby established under the executive branch of the government of the City an office of civil defense, which shall consist of:

1. A director of civil defense who shall be appointed by the Mayor and serve at his pleasure;
2. A civil defense advisory committee. This committee shall consist of the Mayor as chairman and five (5) members appointed by the Mayor and serving at his pleasure. The committee shall select from its members a vice-chairman and secretary. The committee shall function in an advisory capacity on all matters pertaining to civil defense. It shall hold such meetings as are directed by the Mayor; and
3. Such other volunteer civil defense advisory committees as may be created by the director for the evaluation of technical, professional, or other phases of the work of the office of civil defense and which may provide advisory assistance on any matters pertaining to the city's civil defense.

**Sec. 13-303. Director of civil defense; powers and duties.** The director of civil defense shall be the executive head of the office of civil defense, and shall be responsible to the Mayor for carrying out the civil defense program of the City. He shall serve without compensation but may be reimbursed for expenses incurred in the performance of his duties. He shall have all necessary power and authority to form committees or other bodies and to appoint and designate the chairman or chief officer of such bodies as may be necessary to perfect such an organization. He shall coordinate the activities of all



organizations for civil defense within the City and shall maintain liaison with and cooperate with civil defense agencies of other governmental units, both within and without the State. He shall have such additional authority, duties and responsibilities as may be authorized by this Chapter or other law. The director shall have general direction and control of the office of civil defense. He is further authorized to formulate written plans and gather information and keep written records thereof to govern the functions of the civil defense organization.

**Sec. 13-304. Members to serve without compensation; liability of City.** All members of the civil defense organization created pursuant to this Chapter shall serve without compensation, and the City shall not be liable for any personal injury property damage sustained by any member of such organization while acting in the line of duty.

**Sec. 13-305. Emergency powers and duties.**

**A.** In the event of any enemy caused emergency or emergency resulting from natural causes, the director of civil defense, after due authorization from the Mayor, shall have the power and authority to enforce all rules and regulations relating to civil defense and, if necessary, take control of transportation, communications, stocks of fuel, food, clothing, medicine and public utilities for the purpose of protecting the civilian population. He shall cooperate other governmental agencies or civil defense organizations and, if required by the Mayor, shall have control over any and all funds allocated from any source for the purpose of alleviating distress conditions in the City.

**B.** The director of civil defense and other members of the civil defense organization shall have the power and authority to enforce the laws of the State and the ordinances of the City during the period of emergency and shall, at such times, have the further power to make arrests for violations of such laws or ordinances.

# Chapter 4

## UNCLAIMED PROPERTY

Sec. 13-401.	Complete record required. . . . .	13.9
Sec. 13-402.	Disposition of unclaimed property. . . . .	13.9
Sec. 13-403.	Property found by a private person. . . . .	13.9
Sec. 13-404.	Recovery by owner. . . . .	13.10

**Sec. 13-401. Complete record required.** All personal property which comes into the possession of any police officer, which has been found or stolen or taken off the person or out of the possession of any prisoner or person suspected of, or charged with, being a criminal, and which is not known to belong to some person laying claim thereto, shall be, by the officer securing possession thereof, delivered into the charge of the chief of police. The chief shall, in a permanent record book kept for that purpose, make a record sufficient to identify the property, with the date and circumstances of the receipt thereof, the name of the person from whom it was taken and the place where it was found; and the record shall also disclose the subsequent disposal thereof, giving the date of sale, name and address of the purchaser, and the amount for which it was sold.

**Sec. 13-402. Disposition of unclaimed property.** Any unclaimed personal property, other than animals, the ownership of which is not satisfactorily established to the chief of police for a period of more than thirty (30) days, shall be sold, or disposed of in the manner required by law, except such personal property as in the opinion of the police chief can be more advantageously used by some department or office of the City.

**Sec. 13-403. Property found by a private person.** Any personal property found by a person other than a public official or employee, which is delivered to any police officer for identification, if not claimed or identified within thirty (30) days, shall, within ten (10) additional days thereafter, if requested by the finder, be returned to him, and a record of such disposal made thereof. If the finder does not request return of the property to him within such additional ten (10) days, then the chief

of police shall sell the property in the manner required by law as if it had been found by a public official employee, or on instruction by the police chief deliver it to some department or office of the City government for its use.

**Sec. 13-404. Recovery by owner.** If any property is sold as herein provided, and the owner thereof takes and recovers possession of same from the purchaser, the amount paid therefore shall be returned to the purchaser, upon verified claim being submitted and approved by the Council.

# Title 14

## STREETS AND PUBLIC WORKS

### Chapter 1

#### USE AND OBSTRUCTION OF STREETS

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**Sec. 14-101. Trees and shrubbery to be trimmed.**

**A.** The owner of any premises abutting on any street of this City shall trim all trees and shrubbery growing in the area between the sidewalks and the roadway of any such street and trees and shrubbery growing on any part of the premises adjacent to the sidewalks or any street or alley in such manner that the boughs or limbs thereof shall not obstruct free and convenient passage and travel along the streets, sidewalks, and alleys. When such premises are occupied by some person other than the owner, such occupant shall trim the trees and shrubbery in the same manner as herein required of the owner. Such trees and shrubbery shall be trimmed so that the lowest branches or foliage shall not be lower than ten (10) feet above the roadway of a street or alley, nor lower than eight (8) feet above the sidewalk.

**B.** Any owner or occupant who shall fail, refuse or neglect to trim trees and shrubbery as provided in this section, after receiving five (5) days notice from the head of the department in charge of streets to do so, shall be guilty of an offense against the city. Every day that the owner or occupant shall fail, refuse or neglect to trim the trees or shrubbery, after the expiration of the five (5) days notice, shall be a separate offense.

**Sec. 14-102. Unlawful to injure trees and shrubbery.** It is unlawful for any person to injure any tree or shrubbery on a street or alley in the City provided that this shall not prohibit the lawful and proper care and removal of such trees and shrubbery.

**Sec. 14-103. Unlawful to obstruct, business use prohibited.** It is unlawful for any person to place upon or permit to be placed upon the streets and alleys of the City any goods, wares, equipment, articles of merchandise or any other obstruction, and leave same thereon, or to use the same as a place to carry on a business or trade.

**Sec. 14-104. Unlawful to unduly obstruct sidewalks and streets.** It is unlawful for any person to use or obstruct the sidewalks of the City in any manner so as to interfere unduly with pedestrian traffic thereon, or to use or obstruct the streets, public highways and alleys of the City in any manner so as to interfere unduly with lawful traffic and parking thereon.

**Sec. 14-105. Obstructions defined.** The following are declared to be obstructions to the streets, public highways, alleys and sidewalks of the city:

A. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles approaching an intersection of streets and public highways from having a clear view of traffic approaching the intersection from cross streets for one hundred (100) feet along the cross streets measured from the property line;

B. All limbs or trees which project over a public sidewalk, street or alley, and which are less than eight (8) feet above the surface of the public sidewalk and nine (9) feet above the surface of the street and alley;

C. All wires over streets, public highways, alleys, or public grounds, which are strung less than twenty (20) feet above the surface of the ground, and all wires not licensed by the city;

D. All buildings, walls and other structures which have been damaged by fire, decay or otherwise, and which are so situated as to endanger the safety of the public, or otherwise built, erected or maintained in violation of this section; and

E. All hanging signs, awnings and other similar structures over the streets, alleys, public highways or sidewalks so situated or constructed as to endanger public safety and are less than twelve (12) feet in the clear above streets, alleys, public highways or sidewalks.

**Sec. 14-106. Openings in sidewalks.** No person shall keep or leave open any cellar door, manhole or grating of any kind in or upon any sidewalk, or permit the same to be left open.

**Sec. 14-107. Unlawful to deposit trash upon streets or sidewalks.** It is unlawful for any person to deposit, throw or sweep into or upon the streets, alleys, parking or sidewalks of the City any paper, rubbish, grass, weeds, tree trimmings, dirt, trash, crates, boxes or other refuse of any kind.

**Sec. 14-108. Unlawful to play on sidewalks and in streets.** It is unlawful for any person to play on the sidewalks, alleys, or upon the main traveled portion of the streets and alleys of the City, except as may be authorized by ordinance.

**Sec. 14-109. Water from filling stations and other businesses.** It is unlawful for any owner or operator of a filling station or other place of business, or any agent or employee thereof, to cause or allow water, grease or other fluid to flow or drain into, upon, over or across any sidewalk, parking, street, alley or other public way.

**Sec. 14-110. Owner or occupant not to permit sidewalk or sidewalk area to become a hazard.** It is unlawful for the owner or occupant of property abutting upon a sidewalk area to permit the sidewalk or sidewalk area adjacent to the property to become a hazard to persons using the sidewalk, or sidewalk area.

**Sec. 14-111. Duty to keep sidewalk and gutter clean, good repair.** It is the duty of the occupant of any lot or piece of ground abutting upon any street where there is a sidewalk or gutter on the street to keep such sidewalk or gutter clean and to remove therefrom all materials, snow or ice, trash, weeds, refuse, rubbish or hazards of any kind and to keep the sidewalk and gutter in good repair. If there is not such occupant of any such lot other than the owner, it is the duty of the owner to do the same.

**Sec. 14-112. Street not to be obstructed so as to interfere with drainage.** It is unlawful for any person, firm, or corporation to obstruct any street, sidewalk, or alley, by placing any approach driveway or other obstruction or substance whatever that will obstruct or prevent the natural flow of water, into the storm sewers or drains, or dam the same so as to back any water upon the streets, alleys, sidewalks, or gutter.

**Sec. 14-113. Excavations or cutting.**

**A.** It is unlawful for any person to make any excavation or cutting in any street, sidewalk, alley or public ground, or to remove any earth or construction material therefrom, except when so authorized to by the City.

**B.** The authorization required by the preceding subparagraph shall be by permit, the cost of which shall be from time to time established by the Mayor and Council.

**C.** Prior to the issuance of a permit to any person to cut any street, sidewalk, street or roadway within the City, such person shall post with the City a maintenance bond in favor of the City, commencing on the day the street, sidewalk, alley or public ground shall have been restored to its original condition by such applicant as required by the City, and continuing for a period of one (1) year from the date the street, sidewalk, street or roadway is been accepted by the City.

**Sec. 14-114. Excavation near streets and sidewalks.** All excavations upon the front or side of any lot adjoining a street or avenue or alley or under any sidewalk in the City shall be securely and properly guarded and protected by the person or persons having charge of the same, so as to prevent the same being or becoming dangerous to life and limb.

**Sec. 14-115. Construction and excavation.** Every person who shall under contract or otherwise have charge of the construction of any cellar or other excavation adjoining or under any sidewalk of the city shall, during the process of such work and for the prevention of accidents, cause such area or other excavations to be securely guarded.

**Sec. 14-116. Damaging streets and walks.** It shall be unlawful for any person to injure, remove or displace any earth, stone, gravel, sand or other material forming a part of any public highway or street or alley, sidewalk or road or crosswalks within the corporate limits of the city without permission so to do from the city.

**Sec. 14-117. Newly paved street.** No person or persons shall drive any vehicle over any newly paved street, avenue, or alley in the City until the paving on the street, alley or avenue shall have been accepted by the City. The contractor or other person having charge of such work shall keep a barricade erected at the end of any street, avenue or alley when such work is under construction.

**Sec. 14-118. Utility poles.** Any telephone, telegraph, electric or other poles standing outside of the curb stone of any street in the City shall be removed and placed in the portion between the sidewalk and the curb stone.

**Sec. 14-119. Animals on walks.** It is unlawful for any person to ride, drive, hitch, tie or place any horse, cow, or any other domestic animal on any sidewalk within the City or so near to any such sidewalk as to interrupt or to discommode travel thereon.

**Sec. 14-120. Drainage ditches, obstacles impeding drainage in streets, notice, correction.**

**A.** Any culvert, driveway, pipe, or other obstacle upon or in the dedicated streets, alleys or ways of the City which impedes the flow of water through drainage ditches now constructed or which might hereafter be constructed by the City for the purpose of proper drainage of water falling from any rainfalls, which might reasonably be anticipated, shall be and are hereby declared to be public nuisances endangering and interfering with travel upon and the repair and maintenance of city streets and annoying, and injuring and endangering the comfort, repose, health and safety of the citizens of the City.

**B.** All public nuisances existing contrary to the provisions of this section not abated by the owners of occupants of adjoining premises or their agents within ten (10) days after being given notice as provided herein, shall be abated by the City or any officer or employee of the City be digging up,

breaking, if necessary or not reasonably avoidable, and removing such culvert, driveway, pipe, or other obstacle and opening up such drainage ditch, and leaving the same open.

**C.** The notice herein mentioned shall be in writing directing the owner or occupant of premises adjoining such nuisances to abate the same by removing such obstacle impeding drainage, and shall be given by mailing to the owner or occupant of such adjoining premises at his or their last known address, or to both, if their names and post office addresses can be ascertained with reasonable diligence, by certified mail or by delivery of such notice to such owner or occupant personally by any officer, employee or agent of the City, or by posting such notice at some conspicuous place upon such premises if the name or mailing address of the owner or occupant of the premises cannot be ascertained with reasonable diligence.

## Chapter 2

### STREET CONSTRUCTION REQUIREMENTS

Sec. 14-201.	Building permit; restrictions. . . . .	14.4
Sec. 14-202.	Street right-of-way and roadway widths required. . . . .	14.4
Sec. 14-203.	Street construction and surfacing requirements adopted by reference. . . . .	14.4
Sec. 14-204.	Variance to street construction requirements may be granted. . . . .	14.5

**Sec. 14-201. Building permit; restrictions.** A permit for the construction of a building or structure shall not be issued until all sanitary sewer mains, water mains, house sewer service lines and house water service lines are installed and the street required by ordinance has been constructed to the lot on which the building shall be erected at the expense of the developer, contractor or subdivider.

**Sec. 14-202. Street right-of-way and roadway widths required.**

**A.** The minimum right-of-way of all streets constructed within the City or within any subdivision that seeks to be annexed into the City and that are classified as residential streets shall be fifty (50) feet.

**B.** The minimum finished road way of all streets constructed within the City or within any subdivision that seeks to be annexed into the City and that are classified as residential streets shall be twenty-six (26) feet.

**Sec. 14-203. Street construction and surfacing requirements adopted by reference.**

**A.** All streets shall be paved according to the standards and in the manner specified in the publication known as Street Construction and Surfacing Requirements which is found in the office of the City Clerk and the office of the City Superintendent of the City.

**B.** A person who constructs a house on an existing street shall not be required to pave the existing street in front of the lot under this section since this section is intended only for subdivision or development. However, in any case where the subdivision abuts any street that is designated as a collector, commercial, secondary or primary street, the developer shall be required to provide one-half (1/2) of the required right-of-way for the street, and the final plat shall show the actual width of the street, the roadway location and type of street surfacing that is proposed.

**C.** All streets constructed in present and new developments shall be installed and the cost borne by the developer. When the street have been constructed according to the construction and surfacing regulations of Subsection A of this section the City may accept such street for maintenance.

**D.** The publication referred to in this section is made a part of this code and adopted by reference and shall be available in the office of the City Clerk.

**Sec. 14-204. Variance to street construction requirements may be granted.** Should the requirements of this Chapter create an undue hardship or burden on any person affected thereby, that person may petition the Council for a variance to the provisions or specifications required by this chapter. A variance to these specifications may be granted by the Council by a three-fourths ( $\frac{3}{4}$ ) vote and upon a specific finding that the requirements of this create an undue hardship or burden and that the granting of the variance does not adversely affect the business of the city.

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# Title 15

## TRAFFIC AND VEHICLES

### Chapter 1

#### GENERAL PROVISIONS

Sec. 15-101.	Citation of chapter. . . . .	15.1
Sec. 15-102.	Traffic code controlling. . . . .	15.1
Sec. 15-103.	Definitions. . . . .	15.1
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**Sec. 15-101. Citation of chapter.** This Chapter and all amendments hereto may be cited or referred to as the “Traffic Code, City of Wagoner”, and may so appear upon all official documents, records or instruments.

**Sec. 15-102. Traffic code controlling.** Except as specifically provided as set forth in this Chapter, the Traffic Code shall be controlling and apply to the use of city streets, alleys, thoroughfares, parks, parkways, public parking lots, school driveways, streets, parking lots, or any other public right-of-way or municipally owned land, including streets and other ways that form the boundary lines of the City, by pedestrians and by vehicles of every kind whether self-propelled or otherwise and whether moving or at rest.

**Sec. 15-103. Definitions.** As used herein:

1. “Alley” means any narrow highway ordinarily located in the interior portion of platted blocks and ordinarily used for service or delivery purposes at the rear of stores, dwellings or buildings;
2. “Ambulance” means a motor vehicle constructed, reconstructed or arranged for the purpose of transporting ill, sick, or injured persons;
3. “Bicycle” means a device having two (2) or more wheels upon which any person may ride and shall include tricycles, quadcycles, skateboards, scooters and similar human powered devices;
4. “Bus” means every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation;
5. “Business district” means the territory contiguous to, and including a highway if there are buildings within six hundred (600) feet of the highway in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway;
6. “Controlled access highway” means every highway, street roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway;
7. “Commercial vehicles” means every vehicle designed, maintained, or used primarily for the transportation of property;
8. “Center lane” means any clearly marked center lane. If the center lane is not marked and no cars are parked on the roadway, then the center lane is equally distanced between the curbs or traveled portion of the roadway. In the event a vehicle or vehicles are parked on one side of the roadway only,

then the center lane is equally distanced from the side of the parked vehicle or vehicles toward the street and curb on the opposite roadway. If vehicles be parked on each side of the roadway, then the center lane is equally distanced from the edges of the parked vehicles;

**9.** “Cross walk” means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curbs; or in the absence of curbs from the edges of the traversable roadway. “Cross walk” also means any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface;

**10.** “Double park” means parking or stopping a vehicle on the roadway side of another vehicle already parked adjacent to the edge or curbing of the roadway;

**11.** “Driver or operator” means a person who drives or is in actual physical control of a vehicle;

**12.** “Emergency” means an unforeseeable occurrence of temporary duration causing or resulting in an abnormal increase in traffic volume, cessation or stoppage of traffic movement, or creation of conditions hazardous to normal traffic movement, including fire, storm, accident, riot, or spontaneous assembly of large numbers of pedestrians in such a manner as to impede the flow of traffic;

**13.** “Emergency vehicle” means vehicles of the fire department, police vehicles and ambulances;

**14.** “Highway” is synonymous with street;

**15.** “Intersection” means:

**a.** The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadway of two (2) streets, which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different streets join at any other angle, may come in conflict; or

**b.** Where a street includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided street by an intersecting street, shall be regarded as a separate intersection. In the event such intersecting street also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such streets shall be regarded as separate intersections;

**16.** “Laned roadway” means a roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic;

**17.** “Limited access highway” is synonymous with controlled access highway;

**18.** “Loading zone” means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or material. A freight curb loading zone is a loading zone for the exclusive use of vehicles during the loading or unloading of freight; a passenger curb loading zone is a loading zone for the exclusive use of vehicles during the loading or unloading of passengers;

**19.** “Limit lines” means boundaries of parking areas, loading zones and non-traffic areas and lines indicating the proper place for stopping where stops are required;

**20.** “Motor cycle, motor scooter, and motor bicycle” mean a motor vehicle, other than a tractor, having a seat or saddle for the use of the driver and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor;

**21.** “Motor vehicle” means every vehicle which is self-propelled;

**22.** “Official time” shall mean whenever certain hours are named herein they shall mean Central Standard Time, or Daylight Savings Time, as may be in current use in the city;

**23.** “Official traffic control device” means all signs, signals, markings, and devices not inconsistent with this ordinance, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic;

- 24.** “Park or parking” means the standing of a vehicle whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in loading or unloading merchandise or passengers, providing such loading and unloading is in an authorized place;
- 25.** “Pedestrian” means any person afoot;
- 26.** “Police officer” means every officer of the municipal police department, or any officer authorized to direct or regulate traffic, or to make arrests for violation of traffic regulations;
- 27.** “Private road or roadway” means a way or place in private ownership or leading to property in private ownership and used for vehicular traffic by the owner and those having express or implied permission from the owner;
- 28.** “Public parking lot” means a parking lot or right of way dedicated to public use or owned by the state or a political subdivision thereof;
- 29.** “Railroad” means a carrier of persons or property upon cars other than streetcars operated upon stationary rails;
- 30.** “Railroad train” means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars;
- 31.** “Residence district” means the territory contiguous to and including a highway not comprising a business district;
- 32.** “Right-of-way” means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other;
- 33.** “Roadway” means that portion of a street improved, designed, ordinarily used for vehicular travel, exclusive of the shoulders. In the event a street includes two (2) or more separate roadways, the term roadway, as used herein, shall refer to any such roadway, separately, but not to all such roadways, collectively;
- 34.** “Safety zone” means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times, while set apart as a safety zone;
- 35.** “School zone” means all street or portions of streets immediately adjacent to a school, or school ground, where same is adjacent and for a distance of three hundred (300) feet in each direction;
- 36.** “Sidewalk” means that portion of a street between the curblines or at lateral lines of the roadway and adjacent property lines, intended for use of pedestrians;
- 37.** “Stand” or “standing” means any stopping of a vehicle whether occupied or not;
- 38.** “Stop”, when required, shall mean the complete cessation from movement;
- 39.** “Stop or stopping”, when prohibited, means any halting even momentarily of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic signal;
- 40.** “Street or highway” means the entire width between the boundary lines of every way publicly maintained when any part thereof is opened to the use of the public for purposes of vehicular travel;
- 41.** “Through street or highway” means a street, or boulevard or highway or portion thereof at the entrances to which:
- a.** Vehicular traffic from intersecting streets or highways is required by law to come to a full stop before entering or crossing; and
  - b.** Stop signs are erected as provided in this Chapter;

42. “Traffic” means pedestrians, ridden or herded animals, vehicles and other conveyances, either singularly or together, while using any highway or street for purpose of travel;

43. “Traffic control devices or signals” means any device legally authorized and used for the purpose of regulating, warning or guiding traffic;

44. “Urban district” means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred (100) feet for a distance of a quarter mile or more;

45. “U-turn” means a turn by which a vehicle reverses its course or travel on the same street; and

46. “Vehicle” means every device in, upon, or by which any person or property is, or may be transported, or drawn, upon a highway or street, except devices moved by human power or used exclusively upon stationary rails or tracks;

**Sec. 15-104. Adoption of state traffic code.** The provisions of the State Motor Vehicle Code, Sections 1-101 *et seq.* of Title 47 of the Oklahoma Statutes, and the Rules of the Road, Sections 10-101 *et seq.* of Title 47 of the Oklahoma Statutes, are hereby adopted and incorporated herein by reference. Such statutes are enforceable by the City within the city limits as fully as if set out at length herein.

## Chapter 2

### ENFORCEMENT AND GENERAL PROVISIONS

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**Sec. 15-201. Enforcement of traffic laws; establishment of traffic control division.** It is the duty of the officers of the police department or any officers that are assigned by the chief of police to enforce all street traffic laws of this City and all the state vehicle laws applicable to street traffic in this City. Officers of the department shall make arrests for traffic violations, investigate accidents, and cooperate with other officers in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the department by this Title and any other traffic ordinances of this City. Officers may issue written notice to appear to any driver of a vehicle involved in an accident when, based on personal investigation, the officer has reasonable and probable grounds to believe that the person has committed an offense under the provisions of the traffic code in connection with the accident.

**Sec. 15-202. Direction of traffic by hand or voice.**

A. Officers of the police department or any officers designated by the chief of police are hereby authorized to direct traffic by voice, hand, or signal in conformance with traffic laws and ordinances. In the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws and ordinances.

B. Officers of the fire department, when at the scene of a fire, or other emergency, may direct or assist the police in directing traffic in the immediate vicinity.

**Sec. 15-203. Direction of traffic by unauthorized persons.** No unauthorized person shall direct or attempt to direct traffic, except in case of emergency where no officer is present.

**Sec. 15-204. Obedience to police and fire officials.** No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

**Sec. 15-205. Emergency and experimental regulations.**

A. The Council, by motion or resolution, is empowered to adopt regulations necessary to make effective the provisions of the traffic ordinances of this City and to make temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than ninety (90) days.

B. The City may have traffic control devices tested under actual conditions of traffic.

**Sec. 15-206. Push carts, riding animals, or driving animal-drawn vehicles.** Every person propelling any push cart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this Title applicable to the driver of any vehicle, except those provisions of this Title which by their very nature can have no application.

**Sec. 15-207. Use of coasters, roller-skates, and similar devices restricted.**

A. No person upon roller-skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a cross walk; and when so crossing, such person shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by ordinances of this City.

B. No person shall operate a skateboard or roller-skates or any other riding device, whether motorized or manually operated, upon the sidewalks in any commercially zoned area of the City.

**Sec. 15-208. Public officers and employees to obey traffic regulations.** The provisions of this Title shall apply to the driver of any vehicle owned by or used in the service of the United States Government, any State, County, City, or governmental unit or agency, as well as to other vehicles. It is unlawful for any such driver to violate any of the provisions of this Title, except as otherwise permitted in this Title by state statute. This Title shall not apply to the military forces of the United States and organizations of the National Guard when performing any military duty.

**Sec. 15-209. Persons working on streets, exceptions.** Unless specifically made applicable, the provisions of this Title, except those relating to reckless driving and driving while intoxicated, shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon

the surface of a street, or to person, motor vehicles, and other equipment while actually engaged in construction, maintenance, or repair of public utilities. All street or highway and public utility operations shall be protected by adequate warning signs, signals, devices, or flag persons. The provisions of this Title shall apply to any of the persons and vehicles exempted by this section when traveling to and from such work.

**Sec. 15-210. Maintenance and construction zones.**

**A.** City personnel or contractors, while repairing or improving the streets of the City, and City personnel and utility companies, when installing, improving, or repairing lines or other utility facilities in the streets, are hereby authorized as necessary, subject to control by the City, to close any street or section thereof to traffic during such repair, maintenance, or construction. In exercising this authority, the appropriate personnel, contractor or utility company shall erect or cause to be erected proper control devices and barricades to warn and notify the public that the street has been closed to traffic.

**B.** When any street has been closed to traffic under the provisions of the preceding subsection of this section and traffic control devices or barricades have been erected, it is unlawful for any person to drive any vehicle through, under, over, or around such traffic control devices or barricades, or otherwise to enter the closed area. The provisions of this subsection shall not apply to persons entering the closed area or zone for the protection of lives or property. Persons having their places of residence or places of business within the closed area may travel, when possible to do so, through the area at their own risk.

**C.** Whenever construction, repair, or maintenance of any street or utility line or facility is being performed under traffic, the City personnel, contractor, or utility company concerned shall erect, or cause to be erected, traffic control devices to warn and guide the public. Every person using the street shall obey all signs, signals, markings, flag persons, or other traffic control devices which are placed to regulate, control, and guide traffic through the construction or maintenance area.

**Sec. 15-211. Authorized emergency vehicles prohibited.**

**A.** The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or ordinance or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated in this section.

**B.** The driver of an authorized emergency vehicle may do any of the following when in pursuit of an actual or suspected violator of the law or ordinance or when responding to but not upon returning from a fire alarm:

1. Park or stand, irrespective of the provisions of this Title;
2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
3. Exceed the maximum speed limits so long as life or property is not endangered; or
4. Disregard regulations governing direction of movement or turning in specific directions.

**C.** The exemptions granted in this section to an authorized emergency vehicle shall apply only when the driver of any such vehicle is making use of audible and visual signals as required by law, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

**D.** The provisions of this section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

**Sec. 15-212. Operation of vehicles on approach of authorized emergency vehicles.**

**A.** Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this state, or of a police vehicle properly

and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

**B.** This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

**Sec. 15-213. Following emergency vehicles prohibited.** The driver of any vehicle other than one on official business shall not follow any police vehicle, ambulance, civil defense vehicle, fire apparatus, or other emergency vehicle traveling in response to an emergency call or request closer than five hundred (500) feet, or drive into or park such vehicle within the block where the emergency vehicle has stopped in answer to an emergency call.

**Sec. 15-214. Crossing fire hose.** No vehicle shall be driven over any unprotected hose of a fire department used at any fire or alarm of fire, without the consent of the fire department official in command.

**Sec. 15-215. Possession of valid driver's license required.**

**A.** No person shall operate any motor vehicle on the highways without having in his possession at all times, when operating such motor vehicle, an unrevoked or unsuspended operator's or chauffeur's license as required by the laws of the state, unless such person is specifically exempted from such laws by the provisions thereof. No person charged with violating this section shall be convicted if he produces in court an operator's or chauffeur's license issued to him and valid at the time of his arrest.

**B.** No person shall operate a motor vehicle in any manner in violation of any restriction that may be imposed in a restricted license issued to him with respect to the type of, or special mechanical control devices required on a motor vehicle or any other restriction applicable to the licensee as the state may determine.

**Sec. 15-216. Operation of vehicles on invalid license prohibited.** No person shall operate a motor vehicle when his privilege to do so is cancelled, suspended, revoked or denied.

**Sec. 15-217. Unlawful to operate vehicle without state vehicle license.** It is unlawful to operate a vehicle of any kind upon a street of the City without a state vehicle license as may be required by law or to fail to display the state vehicle license as may be required by law.

**Sec. 15-218. Permitting unauthorized person to drive prohibited.** No person shall authorize or knowingly permit any vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized under the provisions of the laws of the state to operate such vehicle.

**Sec. 15-219. Accidents, duty to stop, leaving scene of accident.**

**A.** The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle or property shall immediately stop his vehicle at the scene of such accident, or as close thereto as possible, return to and remain at the scene of the accident until he has given his name, address and the registration of his vehicle and shall upon request exhibit his driver's license to the person injured or the driver or occupant of, or person attending, any vehicle collided with, and shall render to any person injured in such accident reasonable assistance, including the carrying or making arrangement for the carrying of such persons to a physician, surgeon or hospital for medical and surgical treatment if it is apparent that this treatment is necessary, or if such is requested by the injured person. Each such stop shall be made without obstructing traffic more than is necessary.

**B.** The driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to or death of any person or in which it is apparent that damage to one vehicle or to the property is in excess of Three Hundred Dollars (\$300.00) shall, as soon as practicable, report such accident to a police officer or to the police department. If a driver makes out a written report of the accident in the office of the police department as soon as practicable after the accident, which report is to be

forwarded to the State Department of Public Safety in accordance with state law, the driver shall be deemed to be in compliance with this section.

**Sec. 15-220. Issuance of citation tags.**

A. Police officers are hereby authorized to give notice to persons violating provisions of this Title by delivering citation tags to violators or, in cases where vehicles without drivers are parked or stopped in violation of this chapter, by affixing such tags to the vehicles by means of which the violation occurred. Such citation tags, among other things, shall bear briefly the charge, shall bear the registration number of the vehicle, and shall direct the violator to present the tag at the police station or other designated place within the time as may be specified thereon.

B. Nothing in this section shall be construed to abridge the power of a police officer to arrest any violator and take him into custody.

C. The City may require that the police officers use citation tags furnished by the City Clerk and that such tags are serially numbered, and may regulate the use and handling of the citation tags.

**Sec. 15-221. Disposition and records of traffic citations and complaints.**

A. Every police officer upon issuing a traffic citation to an alleged violator of any provision of this traffic ordinance, shall deposit the original and a duplicate copy of the citation to an immediate superior officer who shall cause the original to be delivered to the municipal court of the city and the duplicate copy to the central records section of police department. The second duplicate copy of the citation shall be retained in the traffic citation book and shall be delivered by such superior officer to the City Clerk together with such book when all traffic citations therein have been issued.

B. Upon the filing of such original citation in the municipal court of the City the citation may be disposed of by the City Attorney, by trial in the court or by other official action by a judge of the court, including the settlement of bail or the payment of a fine, or may be dismissed by the judge, if in his opinion, the actions complained of do not constitute a violation of traffic ordinances.

C. The chief of police shall require the return to him each traffic citation and all copies thereof except that copy required to be retained in the book as provided herein, which has been spoiled or upon which an entry has been made, and has not been issued to an alleged violator.

D. The chief of police shall also maintain or cause to be maintained in connection with every traffic citation issued by a member of the police department, a record of the disposition of the charge by the municipal court of the City.

E. The chief of police shall also maintain or cause to be maintained a record of all warrants issued by the municipal court of the city, all the traffic fines which are delivered to the police department for service and of the final disposition of the warrant.

F. It is unlawful and official misconduct for any member of the police department or other officer of public employ to dispose of, alter, or deface any traffic citation or any copy thereof or the record of issuance of any traffic citation, complaint or warrant in any manner other than is required in this section.

**Sec. 15-222. When copies of citations shall be deemed a lawful complaint.** In the event the form of citation provided herein includes information and is sworn to, then such citation, when filed with the municipal court, shall be deemed to be a lawful complaint for the purpose of prosecution under this Chapter.

**Sec. 15-223. Failure to obey citation.** It is unlawful and an offense for any person to violate his written promise to appear, given to an officer upon the issuance of a traffic citation regardless of the disposition of the charge for which citation was originally issued.

**Sec. 15-224. Failure to comply with traffic citations attached to parked vehicle.** If a violator of the restrictions on stopping, standing, or parking under the traffic laws or ordinances does not appear in response to a traffic citation affixed to such motor vehicle within a period of days as specified on the citation, the clerk of the municipal court may send to the owner of the motor vehicle to which the



traffic citation was affixed a letter informing him of the violation and warning him that in the event such letter is disregarded for the specified period of days, a warrant of arrest may be issued. On any occasion where two (2) or more such traffic citations have been affixed on the same motor vehicle and the traffic citations have been disregarded, a warrant of arrest may be issued without sending the letter provided in this section.

**Sec. 15-225. Presumption in reference to illegal parking.**

**A.** In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any law or regulation, together with proof that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, shall constitute in evidence prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

**B.** The presumption in the preceding subsection of this section shall apply only when the procedure as prescribed in this Chapter has been followed.

**Sec. 15-226. Illegal cancellation of traffic citations.** It is unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner other than is provided by this Chapter.

**Sec. 15-227. Court records; abstract to be sent to State Department of Public Safety.**

**A.** The municipal judge shall keep a record of every traffic citation deposited with or presented to the court and shall keep a record of every official action by the court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, and the amount of fine or forfeiture.

**B.** Within ten (10) days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this chapter or other law regulating the operation of vehicles on highways, the municipal judge or clerk of the court in which the conviction was had or bail was forfeited shall prepare and immediately forward to the State Department of Public Safety a certified abstract of the court's record of the case. An abstract need not be made of any conviction involving the illegal parking or standing of a vehicle.

**C.** The abstract must be made upon a form furnished by the State Department of Public Safety and shall include the name and address of the party charge, the number of his operator's or chauffeur's license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, whether bail was forfeited, and the amount of the fine or forfeiture.

**Sec. 15-228. Insurance or certificate required.**

**A.** The owner of a motor vehicle registered in this state and operating the vehicle within the City, shall carry in such vehicle at all times a current owner's security verification form listing the vehicle, or an equivalent form which has been used by the State Department of Public Safety which shall be produced by any driver thereof upon request for inspection by any law enforcement officer and, in case of a collision, the form shall be shown upon request to any person affected by the collision.

**B.** The following shall not be required to carry an owner's or operator's security verification form or an equivalent form from the department during operation of the vehicle and shall not be required to surrender such form for vehicle registration purposes:

1. Any vehicle owned or leased by the federal or state government, or any agency or political subdivision thereof;
2. Any vehicle bearing the name, symbol or logo of the business, corporation or utility on the exterior and which is in compliance with the Compulsory Insurance Law according to records of the Department of Public Safety which reflect a deposit, bond, self-insurance, or fleet policy;
3. Any vehicle authorized for operation, under a permit number issued by the Interstate Commerce Commission, or the Oklahoma Corporation Commission;
4. Any licensed taxicab; and

5. Any vehicle owned by a licensed motor vehicle dealer.

C. For the purpose of this section, the following terms shall have the meanings respectively ascribed to them in this section:

1. “Owner’s Policy” means an owner’s policy of liability insurance which:

- a. Shall designate by explicit description or by appropriate reference all vehicles with respect to which coverage is thereby to be granted;
- b. Shall insure the person named therein and insure any other person, except as provided in Subparagraph C of this paragraph, using an insured vehicle with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, operation or use of such vehicle;
- c. May provide for exclusions from coverage in accordance with existing laws; and
- d. Shall be issued by an authorized carrier providing coverage in accordance with Section 7-204 of Title 47 of the Oklahoma Statutes;

2. “Operator’s Policy” means an operator’s policy of liability insurance which shall insure the named person against loss from the liability imposed upon him by law for damages arising out of the operation or use by him of any motor vehicle not owned by him, subject to the same limits of liability required in an owner’s policy;

3. “Security” means:

- a. A policy or bond meeting the requirements of Section 7-204 of Title 47 of the Oklahoma Statutes;
- b. A deposit of cash or securities having the equivalency of limits required under Section 7-204 of Title 47 of the Oklahoma Statutes as acceptable limits for policy or bond; or
- c. Self-insurance, pursuant to the provisions of Section 7-503 of Title 47 of the Oklahoma Statutes, having the equivalency of limits required under Section 7-204 of Title 47 of the Oklahoma Statutes as acceptable limits for a policy or bond;

4. “Compulsory Insurance Law” means the law requiring liability insurance in conjunction with the operation of a motor vehicle in this state as found in Article VI, Chapter 7, and Section 7-606 of Title 47 of the Oklahoma Statutes; and

5. “Security verification form” means a form, approved by the State Board for Property and Casualty Rates, verifying the existence of security required by the Compulsory Insurance Law of the State of Oklahoma.

D. Every operator of a motor vehicle registered in this state, shall while operating or using such vehicle within the City’s boundaries, carry either an operator’s or an owner’s security verification form issued by a carrier, providing the operator is not excluded from coverage thereon; or an equivalent form issued by the state department of public safety, reflecting liability coverage.

E. An owner or operator who fails to produce for inspection a valid and current security verification form or equivalent form which has been issued by the department upon request of any peace officer of the department shall be guilty of a misdemeanor and upon conviction shall be subject to a fine as provided in Section 1-108 of this code.

F. A sentence imposed for any violation of this section may be suspended or deferred in whole or in part by the court.

G. Any person producing proof in court that a current security verification form or equivalent form which has been issued by the department reflecting this liability coverage for such person was in force at the time of the alleged offense shall be entitled to dismissal of such charge.

H. Upon conviction, bond forfeiture or deferral of sentence, the court clerk shall forward an abstract to the State Department of Public Safety within ten (10) days reflecting the action taken by the

court.

## Chapter 3

### VEHICLE EQUIPMENT

Sec. 15-301.	Certain vehicles prohibited; vehicles injurious to streets. . . . .	15.11
Sec. 15-302.	Obstructive and dangerous vehicles. . . . .	15.11
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**Sec. 15-301. Certain vehicles prohibited; vehicles injurious to streets.** No vehicle or object which injures or is likely to injure the surface of a street, shall be driven or moved on any street.

**Sec. 15-302. Obstructive and dangerous vehicles.** No person shall drive any vehicle in such condition, so constructed, or so loaded, as to cause delay or be likely to cause delay in traffic, or as to constitute hazard to person or property, except by permit issued by the chief of police and in accordance with terms of such permit.

**Sec. 15-303. Equipment.**

**A.** Except as provided in this section, every vehicle operated upon the streets of the City shall be equipped as required by law. It is unlawful to operate a vehicle upon a street of the City which is not equipped as required by law. It is unlawful to fail to use such equipment in the manner required by law, or to use it in a manner prohibited by law. It is unlawful to operate a vehicle which has equipment prohibited by law upon a street of the City.

**B.** All-terrain vehicles and golf carts owned by the City may be operated on the streets of the City during daylight hours.

**Sec. 15-304. Mufflers, cut-outs, vehicles and cycles.**

**A.** No motor vehicles with an internal combustion engine shall be operated within the City unless the exhaust from such engine is muffled by a suitable and sufficient muffler. No muffler cut-out or exhaust or vacuum whistle shall be used on any motor vehicle while operating within the city, except that exhaust whistles may be used on authorized emergency vehicles.

**B.** It is unlawful for any person to operate a motorcycle or motor scooter which is not equipped with a muffler or other noise reduction control device.

**Sec. 15-305. Width, height, length, and load.** No person shall drive or convey through any street any vehicle the width, height, length, weight, or load of which exceeds that authorized by state law, except in accordance with a permit issued by state authority or by the chief of police.

## Chapter 4

### SPEED REGULATIONS

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**Sec. 15-401. Speed limits generally; exceptions.**

**A.** No vehicle shall be driven at a greater speed than twenty-five (25) miles per hour upon any street or highway within the City except:

1. Emergency vehicles being lawfully driven as provided in this Code;
2. When a different speed limit is otherwise designated and posted; or
3. When a different speed limit is established in this Code.

**B.** The Council, by motion or resolution, may reduce or increase the speed limits provided in this Code, and when it does so, appropriate signs shall be placed on such streets or parts of streets indicating the lower or higher speed limit.

**Sec. 15-402. School zones.** No vehicle shall be driven at a greater speed than the posted speed per hour between the hours posted on any street adjacent to any school in a designated school zone on days when school is in session, unless a different speed limit or time is otherwise designated and posted.

**Sec. 15-403. Speed not to exceed that which is reasonable or prudent; specific limits.** No person shall drive a vehicle at a speed greater or less than is reasonable or prudent under the conditions then existing, taking into consideration among other things, the conditions of the vehicle, the traffic, roadway surface or width, the amount of light or darkness, the presence of pedestrians in or near the roadways, and the obstruction of views. No person shall drive any vehicle at a speed greater than will permit him to bring it to a stop within the assured clear distance ahead.

**Sec. 15-404. Minimum speed requirements; exception.** No vehicle shall be driven at such an unreasonably slow speed in relation to the effective maximum speed allowed as to constitute a hazard or to interfere with the normal movement of other traffic except when the slow speed is unavoidable.

**Sec. 15-405. Obedience to maximum and minimum speed limits.** Where official signs and markings give notice of both maximum and minimum speed limits in effect on any street, no vehicle shall be driven at rates in excess of the maximum nor slower than the minimum except as required by an authorized officer or in obedience to posted official signs.

## Chapter 5

### DRIVING, OVERTAKING, PASSING

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**Sec. 15-501. Changing lanes.**

**A.** Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, in addition to all other rules consistent with this subsection, a vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety and has signaled for a changed of course.

**B.** Where streets or roadways do not have marked traffic lanes, vehicles shall nevertheless keep in line or follow a straight course as nearly as practical and shall not weave in and out or turn from side to side unnecessarily. Vehicles shall move to the right or left only as necessary in slowing or stopping adjacent to the curb, in passing slow moving vehicle or making a proper approach for a turn, and this only after the driver has first ascertained that such movement can be made safely and has signaled for a change of course.

**C.** Upon a roadway which has been divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is clearly marked to give notice of such allocation.

D. Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway. Drivers of vehicles shall obey the directions of every such sign.

**Sec. 15-502. Driving on right side of roadway required; exceptions.**

A. Upon all roadways of sufficient width a vehicle shall be driven to the right of the center of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
2. When the right half of a roadway is closed to traffic while under construction or repair;
3. Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon; or
4. Upon a roadway designated and sign-posted for one-way traffic.

B. All vehicles shall keep to the right roadway on all streets or highways which are divided into two (2) roadways.

C. Upon all roadways, any vehicle proceeding at less than normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

**Sec. 15-503. When overtaking on the right is permitted.**

A. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;
2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction; or
3. Upon a one-way street or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.

B. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

**Sec. 15-504. Overtaking a vehicle on the left.**

A. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street or roadway until safely clear of the overtaken vehicle.

B. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

**Sec. 15-505. Limitations on overtaking on the left; exception.**

A. No vehicle shall be driven to the left side of the center of the street or roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the completion of the overtaking and passing without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every instance the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred (100) feet of any vehicle approaching from the opposite direction.

**B.** No vehicle at any time shall be driven to the left side of the roadway under the following conditions:

1. When approaching the crest of a grade, or upon a curve in the street or highway where the driver's view along the street or highway is obstructed; or
2. When approaching within one hundred (100) feet of a bridge, viaduct or tunnel or when approaching within fifty (50) feet of or traversing any intersection or railroad grade crossing.

**Sec. 15-506. Passing vehicles proceeding in opposite directions.** Drivers of vehicles proceeding in opposite directions shall pass each other to the right. Upon roadways having a width for not more than one line of traffic in each direction each driver shall give to the other at least one-half ( $1/2$ ) the main-traveled portion of the roadway as nearly as possible.

**Sec. 15-507. One-way roadways and rotary traffic islands.**

**A.** The Council, by motion or resolution, may designate any road, street, alley, or highway, or any separate roadway under their jurisdiction for one-way traffic and shall cause appropriate signs giving notice thereof, to be erected.

**B.** Whenever the City designates any street or alley or part thereof as a one-way street or alley, the City shall have placed and maintained signs giving notice thereof; and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

**C.** Upon those streets and parts of streets and in those alleys and parts of alleys so designated as one-way streets and alleys, vehicular traffic shall move only in the direction indicated when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

**D.** Upon roadways designated and sign posted for one-way traffic a vehicle shall be driven only in the direction designated.

**E.** A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

**Sec. 15-508. Following too closely.** The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

**Sec. 15-509. No passing zones.**

**A.** The State Department of Transportation, as regards state and federal highways, and the City as regards all other streets, are hereby authorized to determine those portions of any highways where overtaking and passing to the left would be especially hazardous, and may, by appropriate signs or markings on the roadway, indicate the beginning and end of such zones. When such signs or markings are in place and clearly visible to an ordinarily observant person, every driver shall obey the directions thereof.

**B.** Where signs or markings are in place to define a no-passing zone as set forth in Subsection A of this section, no driver shall at any time drive to the left side of the roadway within then no-passing zone or on the left side of any pavement striping designed to mark the no-passing zone throughout its length.

**Sec. 15-510. Driving through funeral or other procession prohibited; exceptions.** No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this Chapter. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.

**Sec. 15-511. Drivers in a procession.** Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

**Sec. 15-512. Funeral processions to be identified.** A funeral composed of a procession of vehicles shall be identified as such by the lighting of headlights or such identifying insignia as may be determined and designated by the police department.

**Sec. 15-513. Overtaking and passing in school zones.**

**A.** No driver of a vehicle shall pass any other vehicle which is in motion and being driven in the same direction in any school zone between the hours posted on all days when schools are in session.

**B.** Wherever a school zone is located on a multiple lane street which is divided into three (3) or more clearly marked lanes for traffic or where the right half of the roadway has been divided into two (2) or more lanes, or on one-way streets, vehicles shall be allowed to pass slower moving vehicles being driven in the same direction where passing does not involve a change of lane movement.

**Sec. 15-514. Overtaking and passing school bus.**

**A.** The driver of a vehicle meeting or overtaking a school bus that is stopped to take on or discharge school children, and on which the red loading signals are in operation, shall stop his vehicle before it reaches the school bus and not proceed until the loading signals are deactivated and then proceed past such school bus at a speed which is reasonable and with due caution for the safety of such school children and other occupants.

**B.** The driver of any vehicle when passing a school bus shall use due caution for the safety of school children and other occupants of the school bus.

**C.** Occupants of the school bus shall have the right of way when crossing the roadway immediately upon leaving the school bus.

**Sec. 15-515. School bus requirements; lights; signs; painting.**

**A.** The preceding section shall be applicable only if the school bus is painted yellow and bears upon the front and rear thereon a plainly visible sign containing the words "SCHOOL BUS" in letters not less than eight (8) inches in height which can be removed or covered when the vehicle is not in use as a school bus.

**B.** The school bus shall be equipped with four (4) red alternately flashing warning signal lights, two (2) of which shall be located high on the front and two (2) high on the rear of the vehicle. The lights shall be a minimum of four (4) inches in diameter and shall be widely separated.

**Sec. 15-516. Driving of vehicles on sidewalk prohibited; exception.** No person shall drive any vehicle within or upon any sidewalk area except at a permanent or temporary driveway.

**Sec. 15-517. Limitations on backing vehicle.** The driver of a vehicle shall not back the vehicle unless such movement can be made with reasonable safety and without interfering with any other traffic. No vehicle shall be backed into an intersection.

**Sec. 15-518. Limitation on use of motorcycles, bicycles and motor scooters.**

**A.** No driver of a two-wheeled or three-wheeled motor vehicle or bicycle shall carry any other person upon or within such vehicle on any street or highway, except as provided in this section:

1. If any two-wheel or three-wheel motor vehicle with a wheel diameter of twelve (12) inches or greater or any bicycle shall have either a double seating device with double foot rests or a side car attachment providing a separate seat space within such sidecar attachment for each person riding therein so that such person shall be seated entirely within the body of the side car, then it shall be permissible for an operator who has attained the age of sixteen (16) or older to carry a passenger; and

2. A demonstration ride by a licensed dealer or his employee is permissible.

**B.** No motorcycle or motor scooter shall be ridden upon any sidewalk of the City.

**C.** No rider of a motorcycle, bicycle, or motor scooter shall hold on to any moving vehicle for the purpose of being propelled.



**D.** A person operating a motor scooter, motorcycle, motor-driven cycle, or motor bicycle, shall ride only upon the permanent and regular seat attached thereto.

**E.** No driver of a motorcycle or motor scooter shall pass other vehicles in between lanes of traffic traveling in the same direction. Authorized emergency vehicles are excepted from the provisions of this subsection.

**F.** No person under the age of sixteen (16) shall operate any motorcycle, motor bicycle, or motor scooter within the city between the hours of 10:00 P.M. and 4:00 A.M.

**Sec. 15-519. Required motorcycle equipment; headgear.**

**A.** In addition to all other requirements motorcycles and motor scooters shall be equipped with the following:

- 1.** Handle bars which do not exceed twelve (12) inches in height, measured from the crown or point of attachment;
- 2.** Two (2) mirrors, containing a reflection surface of not less than three (3) inches in diameter, mounted one on each side of the vehicle and positioned so as to enable the operator to clearly view the roadway for a distance of two hundred (200) feet to the rear of his vehicle;
- 3.** Brakes adequate to control the movement of the vehicle, to stop and hold the vehicle, including two (2) separate means of applying the brakes. One means for applying the brakes shall be to effectively apply the brakes to the front wheel, and one means shall be to effectively apply the brakes to the rear wheels. All such vehicles shall be equipped with a stop lamp on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred (100) feet to the rear in normal sunlight, and which shall be activated upon application of the service brake;
- 4.** A properly operating speedometer capable of registering at least the maximum legal speed limit for that vehicle shall be provided;
- 5.** A fender over each wheel. All fenders shall be of the type provided by the manufacturer;
- 6.** One lighted headlamp capable of showing a white light visible at least three hundred (300) feet in the direction in which the vehicle is proceeding, and one tail lamp mounted on the rear which, when lighted, shall emit a red light plainly visible from at least three hundred (300) feet to the rear. The lights required by this paragraph shall be burning whenever the vehicle is in motion during the period from one-half ( $\frac{1}{2}$ ) hour after sunset to one-half ( $\frac{1}{2}$ ) hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the streets are not clearly discernible at a distance of at least five hundred (500) feet ahead; and
- 7.** A windshield of sufficient quality, size and thickness to protect the operator from foreign objects. In lieu of the windshield, the operator shall wear goggles or face shield of material and design to protect him from foreign objects.

**B.** No person under eighteen (18) years of age shall operate or ride upon any vehicle covered under this section unless the person is equipped with and wearing on the head a crash helmet of the type and design manufactured for use by the operators of such vehicles. All crash helmets shall consist of lining, padding and chin strap and be of the type as not to distort the view of the driver.

**C.** No person may operate a motorcycle or motor scooter with the exhaust system modified so that motor noise is increased greater than that of the original muffler equipment provided by the manufacturers of the vehicle.

**Sec. 15-520. Clinging to vehicles prohibited.** No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or himself to any moving vehicle upon a roadway.

**Sec. 15-521. Entering and leaving controlled access highways.** No person shall drive a vehicle onto or from any controlled-access highway except at entrances and exits established by public authority.

**Sec. 15-522. Reckless driving.** Any person who drives any vehicle in a wanton manner without regard for the safety of persons or property is guilty of reckless driving, and upon conviction thereof, shall be punished as provided in this Code.

**Sec. 15-523. Careless or negligent driving, stopping, or parking.** It is unlawful for any person to drive, use, operate, park, cause to be parked, or stop any vehicle:

1. In a careless manner;
2. In a negligent manner;
3. In such a manner as to endanger life, limb, person, or property; or
4. In such a manner or condition as to interfere with the lawful movement of traffic or use of the streets.

**Sec. 15-524. Full time and attention required.** The operator of every vehicle while driving upon the streets and highways of the City shall devote full time and attention to such driving.

**Sec. 15-525. Vehicle to be operated in a careful and prudent manner.** Any person driving a vehicle on a public road or way shall drive the same in a careful and prudent manner and at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface, and width of the public way and any other conditions then existing.

**Sec. 15-526. Driving while under the influence of drugs.** No person shall drive, operate, or be in actual physical control of any motor vehicle upon any highway who is under the influence of any substance included in the Uniform Controlled Dangerous Substance Act. The fact that any person charged with a violation of this provision is or has been lawfully entitled to use such controlled substance shall not constitute a defense.

**Sec. 15-527. Driving while under the influence of alcohol.**

**A.** It is unlawful for any person who is under the influence of intoxicating drugs of liquor to drive, operate or be in actual physical control of any motor vehicles in the City.

**B.** Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a motor vehicle while under the influence of alcohol or intoxicating liquor, or operating a motor vehicle while his ability is impaired by the consumption of alcohol, evidence of the amount of alcohol in the person's blood as shown by a chemical analysis of his blood or breath is admissible. For the purpose of this section:

1. Evidence that there was four-hundredths of one percent ( $\frac{4}{100}$  of 1%) or less by weight of alcohol in his blood is prima facie evidence that the person was not under the influence of alcohol or intoxicating liquor;
2. Evidence that there was more than four-hundredth of one percent ( $\frac{4}{100}$  of 1%) by weight of alcohol in the person's blood is relevant evidence of operating a motor vehicle while his ability to operate such motor vehicle is impaired by the consumption of alcohol or intoxicating liquor; however, no person shall be convicted while his ability to operate such vehicle is impaired by consumption of alcohol or intoxicating liquor solely because there was more than four-hundredths of one percent ( $\frac{4}{100}$  of 1%) by weight of alcohol in the person's blood in the absence of additional evidence that such person's driving was affected by the consumption of alcohol to the extent that the public health and safety was threatened or that the person had violated a state statute of local ordinance in the operation of a motor vehicle; and
3. Evidence that there was eight-hundredths of one percent ( $\frac{8}{100}$  of 1%) or more by weight of alcohol in his blood shall be admitted as prima facie evidence that the person was under the influence of alcohol or intoxicating liquor;

The percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred (100) milliliters of blood. The provisions of this subsection do not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of alcohol or intoxicating liquor.

**Sec. 15-528. Speed contest prohibited.**

- A.** No person shall engage in, aid or abet any motor vehicle speed contest or exhibition of speed on any street or highway.
- B.** No person shall for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest upon any street or highway, in any manner obstruct or place any barricade or obstruction upon any street or highway.
- C.** When three (3) or more persons assemble to witness or participate in an unlawful speed contest such assembly is unlawful assembly and any person who participates in such unlawful assembly is guilty of an offense.

**Sec. 15-529. Permits required for parades and processions.** No funeral, procession, or parade containing two hundred (200) or more persons or fifty (50) or more vehicles except the military forces of the United States and the military forces of this state, shall occupy, march, or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply.

**Sec. 15-530. Driving through safety zone.** No vehicle shall at any time be driven through or within a safety zone or island.

**Sec. 15-531. Stating parked vehicle.** No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

**Sec. 15-532. Opening and closing vehicle doors.** No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so; nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

**Sec. 15-533. Obstructions to driver's view or driving mechanism.**

- A.** No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three (3), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.
- B.** No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides or to interfere with his control over the driving mechanism of the vehicle.

**Sec. 15-534. Boarding or alighting from vehicles.** No person shall board or alight from any vehicle while such vehicle is in motion.

**Sec. 15-535. Unlawful riding.** No person shall ride on any such vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise.

**Sec. 15-536. Service drives.** It is unlawful for any person to operate any vehicle through a service drive situated at a street intersection within the city unless the operator of such vehicle transacts business on the premises where such service drive is located.

**Sec. 15-537. Truck driving and route restrictions.** The City, subject to such directions as the Council may give, may prescribe routes through the City for the use of trucks in general, trucks of particular kinds or other vehicles which are not ordinary private passenger vehicles, passing through the City. Appropriate and adequate signs shall be placed along such routes so that drivers of such vehicles may follow the routes. When such signs are so erected and in place, the driver of a truck or other vehicle for which a route has been prescribed, as provided above, while passing through the City, shall keep on such route and shall not deviate therefrom except in case of emergency. Drivers of such vehicles shall follow such routes so far as practicable also when driving within the City and not merely through the City.

**Sec. 15-538. Loads on vehicles.**

**A.** No vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining the roadway.

**B.** No person shall operate on any highway any vehicle with any load unless the load and any covering thereon is securely fastened so as to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the highway. Any vehicle loaded with sand, cinders, or other loose material susceptible to blowing or escaping by reason of wind shall have the load covered or dampened so as to prevent the blowing or escaping of the load from the vehicle.

**C.** This section shall apply to trucks loaded with livestock, poultry or agricultural products only except baled agricultural products, provided that any such truck shall be so constructed or loaded as to prevent such livestock or poultry from escaping therefrom.

**Sec. 15-539. Vehicle approaching or entering intersection.**

**A.** When two (2) vehicles enter or approach an uncontrolled intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right as otherwise stated in this chapter; however, the driver of vehicle on a street which is not a state or federal highway approaching an intersection with a state or federal highway shall stop and yield the right-of-way to a vehicle which has entered the intersection or which is so close thereto as to constitute an immediate hazard.

**B.** The right-of-way rule declared in the preceding subsection is modified as to through highways as otherwise stated in this Chapter.

**Sec. 15-540. Vehicle turning left at intersection.** The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. After so yielding and having given signal when and as required by this code, the driver may make the left turn and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn.

**Sec. 15-541. Vehicle approaching a “Yield Right-of-Way” sign.** The driver of a vehicle approaching a “Yield Right-of-Way” sign shall slow to a reasonable speed for existing conditions of traffic and visibility, yielding the right-of-way to all vehicles on the intersecting street or highway which have entered the intersection or which are so close as to constitute an immediate hazard.

**Sec. 15-542. Vehicle entering through highway.** Except when directed to proceed by a police officer or a traffic control signal, every driver of a vehicle shall stop as required by this code at the entrance to a through highway and shall yield the right-of-way to other vehicles which have entered the intersection from the through highway, or which are approaching so closely on the through highway as to constitute an immediate hazard.

**Sec. 15-543. Vehicles facing stop, slow, warning or caution signal.** If two (2) or more vehicles face stop, slow, warning or caution signs or signals at an intersection and are approaching as to enter the intersection at the same time, the following rules shall apply: If each vehicle is required to stop, the vehicle coming from the right shall have the right-of-way. If each vehicle is required to slow, the vehicle coming from the right shall have the right-of-way. If each vehicle is required to take caution, the vehicle coming from the right shall have the right-of-way. If one vehicle is required to slow and the other to take caution, the one required to take caution shall have the right-of-way. In any event, a vehicle which has already entered the intersection shall have the right-of-way over one which has not entered the intersection.

**Sec. 15-544. Through streets.**

**A.** The City, subject to such direction as the council may give, may designate any street or part of a street a through street.

B. Whenever the City designates and describes a through street, the stop sign, or yield sign if deemed more appropriate, shall be placed and maintained on every street intersecting a through street, or intersecting that portion thereof, unless traffic at such intersection is controlled at all times by traffic control signals.

C. At the intersection of two (2) such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of the streets as may be determined by the City.

**Sec. 15-545. Intersections where stop or yield required.** The Council, by motion or resolution, is hereby authorized to determine and designate intersections upon other than through streets where particular hazards exist and to determine whether:

1. Vehicles shall stop at one or more entrances to any such stop intersection, in which event he shall cause to be erected a stop sign at every such place a stop is required; or
2. Vehicles shall yield the right-of-way to vehicles on a different street as provided in this part in which event he shall cause to be erected a yield sign at every place where yield is required.

**Sec. 15-546. Stop or yield sign construction and placement.** Every stop or yield sign erected pursuant to this chapter shall bear the word "Stop" or "Yield" in letters not less than eight (8) inches in height for a stop sign and not less than seven (7) inches in height for a yield sign. Every stop or yield sign shall at night be rendered luminous by steady or flashing internal illumination, by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign. Every stop or yield sign shall be located as close as practicable to the nearest line of the crosswalk on the near side of the intersection or if there is not crosswalk, then the sign shall be located at the nearest line of the intersecting roadway.

**Sec. 15-547. Vehicle entering stop intersection.** Except when directed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection, indicated by a stop sign, shall stop before entering the crosswalk on the near side of the intersection. In the event there is no crosswalk, the driver shall stop at a clearly marked stop line before entering the intersection. If there is no marked stop line, then the driver shall stop at the point nearest the intersecting road where the driver has a view of approaching traffic on an intersecting roadway before entering the intersection. A driver after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or road, or which is approaching so close as to constitute immediate hazard; but the driver having so yielded may then proceed and the driver of all other vehicles approaching the intersection shall yield the right-of-way to the vehicle so proceeding.

**Sec. 15-548. Vehicle entering yield intersection.** The driver of a vehicle approaching a yield sign shall, in observance to such sign, slow down to a speed reasonable for the existing condition or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which he is driving and to any vehicle in the intersection or approaching on another road so closely as to constitute an immediate hazard. The driver having so yielded may then proceed and drivers of all other vehicles approaching the intersection shall yield to the vehicle so proceeding. A driver who enters a yield intersection without stopping and has or causes a collision with a pedestrian at a crosswalk or a vehicle in the intersection shall *prima facie* be considered not to have yielded as required herein. The provisions of this section shall not release the drivers of other vehicles approaching the intersection at such a distance as not to constitute immediate hazard from the duty to drive with due care to avoid a collision. The driver of a vehicle approaching a yield sign, if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection before entering the intersection; if there is no crosswalk, the driver shall stop at a clearly marked stop line, or if there is no stop line, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

**Sec. 15-549. Vehicle entering highway from private road or driveway.** The driver of a vehicle about to enter, leave or cross a highway from or into a private road or driveway shall yield the right-of-way to all vehicles approaching on the highway.

**Sec. 15-550. Vehicles entering traffic from parking.** Any vehicle attempting to re-enter traffic while parked at the curb shall yield the right-of-way to oncoming traffic in the street approaching from the rear. The parked vehicle shall proceed into the line of traffic only after the driver has given the appropriate signal which indicates his intention of turning from the curb and into the line of traffic. The vehicle shall in no event enter the line of traffic until the driver has ascertained that no hazard exists.

**Sec. 15-551. Emerging from the alley, driveway, or building.** The driver of a vehicle emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alley way or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

**Sec. 15-552. Stop when traffic obstructed.** No driver shall enter an intersection or a marked cross walk unless there is sufficient space on the other side of the intersection or cross walk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

**Sec. 15-553. Obedience to signal indicating approach of train.**

**A.** Whenever any person driving a vehicle approaches a railroad grade crossing under any circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
2. A crossing gate is lowered or when a human flagman gives or continues to give signal of the approach or passage of a railroad train;
3. A railroad train approaching within approximately one thousand five hundred (1,500) feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, in an immediate hazard; or
4. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

**B.** No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

**Sec. 15-554. Certain vehicles to stop at all railroad grade crossings.**

**A.** The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and while so stopped, shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing, and driver shall not shift gears while crossing the track or tracks.

**B.** No stop need be made at any such crossing where a police officer or traffic control signal directs traffic to proceed.

**Sec. 15-555. Seat belts and child passenger restraints required.**

**A.** Every operator and front seat passenger of a passenger car operated in this city shall wear a properly adjusted and fastened safety belt system, required to be installed in the motor vehicle when manufactured pursuant to Federal Motor Vehicle Safety Standard 208. For the purposes of this section, "passenger car" shall mean "automobile" as defined in Section 22.1 of Title 47 of the Oklahoma Statutes, except that "passenger car" shall not include trucks, truck-tractors, recreational

vehicles, motorcycles, motorized bicycles or vehicles used primarily for farm use and licensed pursuant to state law, Section 1134 of Title 47 of the Oklahoma Statutes.

**B.** The preceding subsection shall not apply to an operator or passenger of a passenger car in which the operator or passenger possesses a written verification from a physician licensed in this state that he is unable to wear a safety belt system for medical reasons. The issuance of such verification by a physician, in good faith, shall not give rise to, nor shall such physician thereby incur, any liability whatsoever in damages or otherwise, to any person injured by reason of such failure to wear a safety seat belt system. The preceding subsection shall not apply to an operator of a motor vehicle who is a route carrier of the U.S. Postal Service.

**C.** Every driver when transporting a child under four (4) years of age in a motor vehicle operated on the roadways, streets, or highways of this city shall provide for the protection of the child by properly using a child passenger restraint system or a properly secured seat belt in the rear seat of the motor vehicle. For purposes of this subsection, "child passenger restraint system" means an infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the United States Department of Transportation. Children four (4) or five (5) years of age shall be protected by the use of a child passenger restraint system or a seat belt. The provisions of this subsection shall not apply to:

1. A nonresident driver transporting a child in this state;
2. The driver of a school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to state or federal laws;
3. The driver of an ambulance or emergency vehicle;
4. A driver of a vehicle if all of the seat belts in the vehicle are in use; and
5. The transportation of children who for medical reasons are unable to be placed in such devices.

A law enforcement officer is hereby authorized to stop a vehicle if it appears that the driver of the vehicle has violated the provision of this section and to give an oral warning to the driver. The warning shall advise the driver of the possible danger to children resulting from the failure to install or use a child passenger restraint system or seat belts in the motor vehicle. A person who violates the provision of this subsection shall not be subject to any criminal penalty. A violation of the provisions of this subsection shall not be admissible as evidence in any civil action or proceeding for damages. In any action brought by or on behalf of an infant for personal injuries or wrongful death sustained in a motor vehicle collision, the failure of any person to have the infant properly restrained in accordance with the provisions of this subsection shall not be used in aggravation or mitigation of damages.

**D.** No law enforcement officer shall make routine stops of motorists for the purpose of enforcing subsection A of this section. Any person convicted of violating subsection A of this section shall be punished by a maximum fine of Ten Dollars (\$10.00) and court costs.

## Chapter 6

### TRAFFIC CONTROL DEVICES

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**Sec. 15-601. Authority to install traffic control devices.** The Council, by motion or resolution, shall have placed and maintained traffic control signs, signals, and devices when and as required under the traffic ordinances of this City to make effective the provisions of such ordinances, and may have placed and maintained such additional traffic control signs, signals, and devices as they may deem necessary to regulate traffic under the traffic ordinances of this City or under state law or to guide or warn traffic.

**Sec. 15-602. Traffic control devices; uniform requirements.**

**A.** All traffic control signs, signals, and devices shall conform to the Manual of Uniform Traffic Control Devices approved by the State Department of Public Safety.

**B.** All signs, signals, and devices required hereunder for a particular purpose shall so far as practicable be uniform as to type and relative location throughout the City. All traffic control devices erected and not inconsistent with the provisions of state law or this Chapter shall be official traffic control devices.

**Sec. 15-603. Obedience to official traffic control devices.** The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto, placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exemptions granted the driver of an authorized emergency vehicle in this part.

**Sec. 15-604. When official traffic control devices required for enforcement purposes.** No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. If a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.

**Sec. 15-605. Traffic control signal legend.** The display of signal lights, arrows and words shall be deemed to have the following meanings and requires the appropriate response on the part of vehicular traffic and pedestrians:

1. Green alone, “go”:
  - a.** Vehicular traffic facing the signal, except when prohibited, may proceed straight through or turn right or left unless an official sign at such place prohibits such turn, but any vehicle and any pedestrian lawfully within the intersection or adjacent crosswalk at the time the signal displays green shall have the right-of-way over such vehicular traffic; and
  - b.** Pedestrian traffic, facing a green signal may proceed across the roadway within any marked or unmarked crosswalk unless a “walk” signal indicator is operating;
2. Steady yellow or amber alone, “caution”:
  - a.** The showing of such signal color following green shall constitute a warning that the “red” or “stop” signal will be exhibited immediately thereafter; and
  - b.** Vehicles facing the signal shall stop before entering the near side crosswalk or at the limit line, if it is marked, unless the vehicle is so near the limit line when the “caution” signal first flashes that a stop cannot be made in safety, in which event vehicles may proceed cautiously through the intersection and clear the same before the “red” signal flashes;



**3. Red alone, “stop”:**

- a.** Vehicular traffic facing the signal shall stop before entering the crosswalk and shall remain standing until green or “go” is shown alone. Except where official signs are erected prohibiting such turns, vehicles in the right traffic lane, after making a full stop as required, may enter the intersection cautiously and make a right turn, but such vehicles shall yield the right-of-way to any pedestrians or other traffic in the intersection and the turn shall be made so as not to interfere in any way with traffic proceeding on a green signal indication on the cross street; and
- b.** Pedestrians facing the signal shall not enter or cross the roadway when such movement interferes with traffic proceeding on a green signal indication on the cross street, or when the movement cannot be made in safety. No pedestrian facing such signal shall enter the roadway until the green or “go” is shown alone unless authorized to do so, by a pedestrian “walk” signal;

**4. Steady red with green arrow:**

- a.** Vehicular traffic facing such signal when in the proper traffic lane may cautiously enter the intersection only to make the movement indicated by the arrow, but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection. If the movement indicated by the green arrow is a left turn, the left turn shall be made only on the red with green arrow signal; and
- b.** No pedestrian facing such signal shall enter the roadway until the green or “go” is shown alone unless authorized to do so by a pedestrian “walk” signal; and

**5. Green arrows alone.** Whenever vehicular traffic movements are controlled by green arrows alone and not displayed with any other signal indication, vehicles facing such signals may make the movements indicated by the green arrows and the movements shall be made only when the green arrows are displayed.

**Sec. 15-606. Pedestrians; signal indicators; regulations.** Special pedestrian control signals exhibiting the words “walk,” “wait” or “don’t walk” shall regulate pedestrian movement as follows:

- 1. “Walk.”** Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles; and
- 2. “Wait” or “Don’t Walk”.** No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially complete his crossing on the “walk” signal shall proceed to a sidewalk or safety zone while the “wait” signal is showing.

**Sec. 15-607. Flashing signals.**

**A. A.** Whenever a flashing red or yellow signal is illuminated, it shall require obedience by vehicular traffic as follows:

- 1. “Flashing Red.”** When a red light is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign; and
- 2. “Flashing Yellow.”** When a yellow light is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection, or pass such signal only with caution.

**B.** This section shall not apply at railroad grade crossings.

**Sec. 15-608. Pedestrian-activated school crossing signals.** Whenever a pedestrian-activated school crossing signal is provided, it requires obedience by vehicular traffic and pedestrians as follows:

**1. “Flashing yellow”:**

- a.** When a yellow lens is illuminated with rapid intermittent flashes, drivers or operators of vehicles may proceed through the intersection or pass such signal only with caution; and
- b.** Pedestrians shall not proceed in conflict with traffic, but may activate the signal control switch, and shall wait until steady red alone is shown before entering the roadway or intersection controlled by the signal;

**2. “Steady yellow alone”:**

**a.** Vehicular traffic facing the signal is thereby warned that the red of “stop” signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection or pass the signal when the red or “stop” signal is exhibited; and

**b.** No pedestrian shall enter the roadway or intersection on which the signal controls vehicular traffic until steady red alone is shown;

**3. “Steady red”:**

**a. a.** Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection, and shall remain standing until flashing yellow is shown alone;

**b.** Pedestrians may proceed across the road controlled by the signal, and shall be given the right-of-way by the drivers of all vehicles; and

**4. “Steady red and steady yellow combined”:**

**a.** Vehicular traffic facing the signal is thereby warned that the flashing yellow signal will be exhibited immediately thereafter, and that such vehicular traffic shall remain standing until the flashing yellow is shown alone; and

**b.** Pedestrians are thereby warned that the flashing yellow signal is about to be shown, and shall not enter the signal-controlled roadway or intersection, or in a direction which conflicts with the movement of vehicular traffic; but any pedestrian who has partially complete his crossing shall proceed to the nearest sidewalk or safety island, and shall be given the right-of-way by the drivers of all vehicles.

**Sec. 15-609. Unauthorized traffic control devices.**

**A.** No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.

**B.** No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign, signal, or device bearing thereon any commercial advertising.

**C.** This section shall not prohibit the erection upon private property adjacent to highways of signs giving useful directional information which are of the type that cannot be mistaken for official signs.

**D.** Every prohibited sign, signal, marking or device may be removed without notice.

**Sec. 15-610. Defacement of traffic control devices.**

**A.** No person shall without lawful authority attempt to or in fact alter, destroy, deface, molest, interfere, tamper, injure, knock down, remove or have in his possession any traffic control device or any railroad sign or signal or an inscription, shield or insignia thereon, or any part thereof.

**B.** This Chapter shall not apply to any of the following persons when acting within the scope and duty of their employment:

**1.** Any officer, agent, independent contractor, employee, servant or trustee of any governmental agency; or

**2.** Any officer, agent independent contractor, employee, servant or trustee of any contractor, public utility or railroad company.

**Sec. 15-611. Play streets, authority to establish.** The Council shall have authority to declare any street or part thereof a play street and to have place appropriate signs or devices in the roadway indicating and helping to protect the same.

**Sec. 15-612. Play streets, restriction of use.** Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area; and then any such driver shall exercise the greatest care in driving upon any street or portion thereof.

**Sec. 15-613. Designation of crosswalks and safety zones.** The City Superintendent, subject to any directions given by the Council, may:

1. Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary; and
2. Establish safety zones or islands of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

**Sec. 15-614. Traffic lanes.**

**A.** The City Superintendent, subject to any directions given by the Council, is authorized to have traffic lanes marked upon the roadway of any street where a regular alignment of traffic is necessary.

**B.** Where such traffic lanes have been marked, it is unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement or otherwise authorized by ordinance.

**Sec. 15-615. Corner cutting prohibited to avoid devices.** No driver shall drive through a service station driveway or other driveway or private property so as to avoid the use of a street or traffic control device.

## Chapter 7

### STOPPING, STANDING AND PARKING GENERALLY

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**Sec. 15-701. Illegal parking declared public nuisance.** Any vehicle in violation of any regulation contained in this Chapter governing, limiting or prohibiting the parking or standing of a vehicle on any street or public thoroughfare is hereby declared to constitute a public nuisance, and each separate traffic citation issued as authorized herein for such violation shall constitute a separate notice thereof to the owner or operator of such vehicle.

**Sec. 15-702. Application of standing or parking regulations.** The provisions of this Chapter shall not be applicable when it is necessary for a vehicle to stop to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

**Sec. 15-703. Parking time limits may be established, signs.** The City Superintendent, subject to any directions given by the Council, may establish parking time limits or prohibit parking on designated streets or parts of streets and have appropriate signs placed on the streets. When the signs are in place, it is unlawful for any person to park a vehicle in violation of the sign. No such time limits shall be effective unless a sign is erected and in place at the time of the alleged violation.

**Sec. 15-704. Parking more than twenty-four (24) hours.** No person shall park a vehicle on any street for a period of time longer than twenty-four (24) hours. The parking of a vehicle for more than twenty-four (24) hours shall constitute *prima facie* evidence of abandonment of the vehicle.

**Sec. 15-705. Brakes; motor not to be left running.** Adequate brakes shall be set on all parked vehicles. No driver of a motor vehicle shall leave the vehicle with the motor running while parked.

**Sec. 15-706. Use of compression release type engine brakes unlawful.**

**A.** It shall be unlawful, except to avert an imminent danger, for any person to use compression release type engine brakes, commonly known as "jake brakes" unless the blowdown from the compression release and the exhaust of any internal combustion engine is discharged through an appropriated muffler system before entering the ambient air.

**B.** For the purpose of this section, use of a compression release type engine brake or "jake brake" shall be defined as a device which when activated retards one or more pistons on the engine of the motor vehicle in order to assist the motor vehicle in braking, and in the process of doing so creates a loud and offensive noise from the motor vehicle when inadequately or improperly muffled.

**Sec. 15-707. Signs or markings indicating angle parking.** The Council, by motion or resolution, shall determine upon what streets and parts of streets angle parking shall be permitted, and shall have such streets marked or signed.

**Sec. 15-708. Obedience to angle-parking signs or markings.** On those streets which have been so signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

**Sec. 15-709. Parking in spaces marked off.** In an area where parking spaces have been marked off on the surface of the street, a driver parking a vehicle shall park it within a parking space as thus marked off, and not on or over a line delimiting a space.

**Sec. 15-710. Permits for loading or unloading at an angle to the curb.**

**A.** The City Superintendent, subject to any directions given by the Council, may issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized herein. Such permits may be revoked at any time.

B. It is unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit.

**Sec. 15-711. Hazardous or congested places; stopping, standing, parking.**

A. The City Superintendent, subject to any directions given by the Council, may determine and regulate by proper signs the stopping, standing, or parking of vehicles when such stopping, standing or parking would create an especially hazardous condition or would cause unusual delay to traffic.

B. When official signs are erected at hazardous or congested places, as authorized by the preceding subsection, no person shall violate such signs.

**Sec. 15-712. Stopping, standing or parking prohibited in specified places.**

A. No person shall stop, stand, or park a vehicle, except in emergencies or when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device in any of the following places:

1. On a sidewalk, sidewalk area, or between the sidewalk and the street;
2. In front of a public or private driveway;
3. Within an intersection;
4. Within fifteen (15) feet of a fire hydrant except in a parking space officially marked;
5. On a crosswalk;
6. Within twenty (20) feet of a crosswalk at an intersection;
7. Within thirty (30) feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;
8. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length has been indicated by signs or markings;
9. Within fifty (50) feet of the nearest rail of a railroad crossing;
10. Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance when properly sign-posted;
11. Along side or opposite any street excavation or construction when stopping, standing, or parking would obstruct traffic;
12. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel; or
14. At any place where official signs prohibit stopping.

B. No person shall move a vehicle not lawfully under his control into any prohibited area or an unlawful distance away from a curb.

**Sec. 15-713. Blocking of intersection or crosswalk prohibited.** No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

**Sec. 15-714. Standing or parking on one-way roadway.**

A. If a highway includes two (2) or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of the one-way roadway unless signs are erected to permit such standing or parking.

B. The City Superintendent, subject to any directions given by the Council, may determine when

standing or parking may be permitted upon the left-hand side of any such one-way roadway and to erect signs giving notice thereof.

**Sec. 15-715. Standing or parking on left side of one-way streets.** The City Superintendent, subject to any directions given by the Council, may have signs erected upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles. When the signs are in place, no person shall stand or park a vehicle in violation of any such signs.

**Sec. 15-716. Parking adjacent to schools.**

**A.** The City Superintendent, subject to any directions given by the Council, may have signs erected indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

**B.** No person shall park a vehicle in violation of any such signs.

**Sec. 15-717. Parked vehicles not to extend too far into street.** No vehicle shall be parked at an angle on a street so that it or its load will extend more than fifteen (15) feet from the curb or edge of the roadway towards the center of the roadway. No vehicle shall be parked parallel to the curb or edge of the roadway so that it or its load shall extend more than nine (9) feet from the curb or edge toward the center of the roadway.

**Sec. 15-718. Parking prohibited on narrow streets.**

**A.** The City Superintendent, subject to any directions given by the Council, is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty (20) feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed thirty (30) feet.

**B.** When such signs are so erected and in place, no person shall park a vehicle upon any such street in violation of any such signs.

**Sec. 15-719. Parking in alleys, blocking driveways.** No person shall park a vehicle within a street or alley in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic. No person shall stop, stand or park a vehicle within a street or alley in such position as to block a driveway entrance to any abutting property.

**Sec. 15-720. Entry on private property; trespass; evidence; burden of proof.**

**A.** No person shall make an entry with any vehicle upon real property owned or legally occupied by another without the owner's or occupant's consent except where such private property is provided as public parking and the general use of the property is not restricted by signs or proper markings.

**B.** Where entry is made upon real property owned or legally occupied by another without the owner's or occupant's consent, except on unrestricted public parking, and is complained of by the owner or legal occupant of the premises, the burden is put upon the person making the entry to show that permission for such entry was given.

**Sec. 15-721. Truck parking prohibited in certain areas.** It is unlawful and an offense for any person to park any truck over one (1) ton capacity for more than three (3) consecutive hours on any public street in a residential district.

**Sec. 15-722. Double parking.**

**A.** No driver shall double park or double stop a vehicle under the following conditions:

1. Within fifty (50) feet of an intersection except alley intersections, or within ten (10) feet of an alley intersection;
2. Opposite a double parked or double stopped vehicle across the street;
3. When such double parking or double stopping would or does block or interfere materially with the normal movement of traffic;

4. When parking space adjacent to the curb is available;
5. When directed by a police officer to move on; or
6. In any position other than parallel to the curb and within two (2) feet of the adjacent vehicle parked next to the curb;

**B.** A driver may double park or double stop a vehicle only as authorized in this section. There must be a licensed driver in any vehicle while it is double parked or double stopped.

**C.** A driver may double stop for the purpose of, but only while actually engaged in, the expeditious loading or unloading of passengers, subject, however, to all the general conditions hereinabove set out

**D.** A driver may double park for the purpose of, but only while actually engaged in, the expeditious loading or unloading of merchandise, subject, however, to all the general conditions hereinabove set out. No such vehicle shall be double parked longer than ten (10) minutes.

**Sec. 15-723. Parking prohibited for trucks transporting hazardous materials.** It is unlawful to park, store or otherwise let stand a truck or other vehicle which is used for the purpose of transporting or delivering flammable and combustible liquids as defined by the city's fire prevention code and trucks or other vehicles which are used for the transportation and delivery of liquefied petroleum gases in any area of the city. However, the trucks and vehicles restricted in this section may be temporarily parked at locations otherwise zoned for the purpose of loading and unloading flammable and combustible liquids and liquefied petroleum gases for a period not to exceed one and one-half (1.5) hours during any twenty-four (24) hour period.

**Sec. 15-724. Parking for certain purposes prohibited.** No person shall park a vehicle upon any roadway for the purpose of:

1. Displaying the vehicle for sale;
2. Displaying advertising or displaying merchandise or other things for sale or selling merchandise or other things; or
3. Washing, cleaning, or repairing the vehicle, except for repairs necessitated by an emergency.

**Sec. 15-725. Method of parking, standing or parking close to curb.** Except as otherwise provided in this chapter, every vehicle stopped or parked upon a roadway where there are adjacent curbs, shall be so stopped or parked with the right-hand wheels of the vehicle parallel to and within eighteen (18) inches of the right-hand curb. Any vehicle stopped or parked upon the left-hand side of a one-way street where there are adjacent curbs shall be parked or stopped with the left-hand wheels parallel to and within eighteen (18) inches of the left-hand curb.

**Sec. 15-726. Negligent parking.** No person shall park, cause to be parked, stop or leave unattended any vehicle as follows:

1. In a careless or negligent manner;
2. In such a manner as to endanger life, limb, person, or property; or
3. In such manner as to endanger or interfere with the lawful traffic or use of the streets.

**Sec. 15-727. Right-of-way to parallel parking space.**

**A.** The driver of any vehicle intending to occupy a parallel parking space where a backing movement is necessary and which is being vacated by another vehicle shall stop his vehicle to the rear of the parking space until the vacating vehicle has cleared and entered normal traffic. He then shall be deemed to have the right-of-way to such parking space over any other vehicle attempting to park therein.

**B.** The first of two (2) or more vehicles to reach the rear boundary of an unoccupied parallel parking space, where a backing movement is necessary to occupy, shall be deemed to have the right-of-way to such parking space.

**Sec. 15-728. Handicapped parking on public or private property.** It is unlawful for any person to place or park a motor vehicle in any parking space on private property accessible to the public and where the public is invited or public property that is designated and posted as a reserved area for parking of motor vehicles of a physically disabled person unless such person has a physical disability insignia as under the provisions of Section 15-112 of Title 47 of the Oklahoma Statutes, and such insignias are displayed as provided in Section 15-112 of Title 47 of the Oklahoma Statutes or regulations adopted pursuant thereto.

## Chapter 8

### LOADING

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**Sec. 15-801. Definitions.** As used in this chapter:

1. “Commercial vehicle” means:
  - a. A truck designated for delivery purposes with the name of the owner or his business painted on both sides of the vehicle, regularly used during normal business hours for the delivery and handling of merchandise or freight and which bears a regular state commercial license tag;
  - b. A passenger vehicle used regularly and actually engaged during normal business hours in the delivery and handling of merchandise or freight, and which bears a special numbered license plate issued by the city at the rear of the vehicle attached to the state license plate together with an identically numbered decal, issued vehicle;
2. “Freight loading zones” means all curb loading zones authorized and regularly used exclusively for the loading and unloading of merchandise for storage, trade, shipment or re-sale; and
3. “Passenger loading zones” means all loading zones authorized and used regularly and exclusively for the loading and unloading of passengers except but stops, taxicab stands, and stands for other passenger common carrier vehicles.

**Sec. 15-802. Curb loading zones, designation.**

- A. The City Superintendent, subject to any directions given by the Council, may determine the location of passenger and freight curb loading zones and shall have placed and maintained appropriate signs indicating the zones and stating the hours during which the provisions of this section are applicable.
- B. No person shall stand or park a vehicle in violation of signs erected in accordance with this section.

**Sec. 15-803. Loading zones to be used only for designated purpose.** No curb loading zone authorized and established as a passenger loading zone shall be used as a freight loading zone, and no freight loading zone shall be used as a passenger loading zone except as may be specifically provided by law.



**Sec. 15-804. Stopping, standing or parking in passenger curb loading zone.** No person shall stop, stand, or park a vehicle in a passenger curb loading zone for any purpose or period of time other than for the expeditious loading or unloading of passengers, during the hours when the regulations applicable to such curb loading zones are effective, and then only for a period not to exceed three (3) minutes.

**Sec. 15-805. Stopping, standing or parking in commercial curb loading zone.**

**A.** No person shall stop, stand, or park a vehicle in a commercial curb loading zone for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty (30) minutes. Vehicles using any commercial loading zone shall be subject to the licensing requirements and regulations provided by this Chapter.

**B.** The driver of a passenger vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any commercial vehicle which is waiting to enter the zone.

**Sec. 15-806. Designation of public carrier stops and stands.** The City Superintendent, subject to any directions given by the Council, may establish loading zones for common carriers, including but not limited to bus stops, bus stands, taxicab stands and stands for other passengers common carrier motor vehicles, on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public. Every such loading zone shall be designated by appropriate signs.

**Sec. 15-807. Use of bus and taxicab stands restricted.** No person shall stop, stand, or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and the appropriate signs are in place. The driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus, or taxicab waiting to enter or about to enter the zone.

**Sec. 15-808. Stopping, standing and parking of buses and taxis.**

- 1.** The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein.
- 2.** The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage except in a bus stop, stand or loading zone designated as provided herein, except in case of an emergency.
- 3.** The operator of a bus shall enter a bus stop, bus stand, or passenger loading zone on a public street in such a manner that the bus, when stopped to load or unload passengers or baggage, shall be in a position with the right front wheel of such vehicle not further than eighteen (18) inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.
- 4.** The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

## Chapter 9

### TURNING MOVEMENTS

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**Sec. 15-901. Turning markers or indicators.**

**A.** The City Superintendent, subject to any directions given by the Council, is authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersection. The course to be traveled, as so indicated, may conform to or be other than as prescribed by law.

**B.** When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

**Sec. 15-902. Designation of restricted turns.** The City Superintendent, subject to any directions given by the Council, is hereby authorized to determine those street intersections at which drivers of vehicles shall not make right, left or U-turns and shall have proper signs places at the intersections. The making of the turns may be prohibited between certain hours of any day and permitted at other hours. Where turns are restricted during certain hours pursuant to this section, the same shall be plainly indicated on the signs, or they may be removed when turns are permitted.

**Sec. 15-903. Obedience to no-turn signs.** Whenever authorized signs are erected indicating that no right, left or U-turn is permitted, the driver of a vehicle shall not disobey the directions of any such sign.

**Sec. 15-904. U-Turns.**

**A.** The driver of a vehicle shall not turn the vehicle so as to proceed in the opposite direction upon any street in the city at the following locations:

1. At intersections controlled by traffic control devices or signals unless such turns are specifically authorized
2. Where a police officer is directing traffic except at the latter's direction; or
3. At any other location where an official "no-U-turn" has been placed and is maintained.

**B.** A U-turn may be made only when it can be made in safety and without interfering with other traffic. No person shall make a U-turn except in the following manner:

1. By approaching the intersection as closely as practical to the right curb or edge of the roadway, the driver giving and continuing to give a signal for a left turn until the turn is complete, proceeding to make the turn across the intersection;
2. In one continuous movement without stopping or backing the vehicle;
3. By yielding the right-of-way at all times to all vehicles until such turn is completed; and
4. Without constituting a hazard to or interfering with any other vehicle.

**Sec. 15-905. Position and method of turning.** The driver of a vehicle intending to turn at an intersection shall do as follows:

1. Right turns. Both the approach for a right turn and the execution of a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway;
2. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, the approach for a left turn shall be made

in that portion of the right half of the street nearest the center thereof by passing to the right of the center line where it enters the intersection. After entering the intersection, the left turn shall be made so as to leave the intersection to the right of the center of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection; or

**3.** Left turns, on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle. After entering the intersection, the left turn shall be made so as to leave the intersection, as nearby as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon roadway being entered.

**Sec. 15-906. Turning movements and required signals.**

**A.** No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required by the preceding section, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided.

**B.** A signal of intention to turn right or left, slow or stop when required, shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning or stopping.

**C.** No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give the signal.

**Sec. 15-907. Means of giving turn signals.**

**A.** Any stop or turn signal when required herein shall be given either by means of hand or arm, or by a signal lamp or lamps, or mechanical device of a type approved by the Oklahoma Department of Public Safety, except as provided in the following subsection of this section.

**B.** A vehicle shall be equipped with, and the required signal given by, signal lamps or devices when:

- 1.** The body or cab of a vehicle or the load of any vehicle projects twenty-four (24) inches or more to the left of the center of the steering wheel;
- 2.** Under any condition where a hand and arm signal would not be visible both to the front and rear of the vehicle; or
- 3.** The rear limit of the body of a vehicle or the load of any vehicle projects fourteen (14) feet or more beyond the center top of the steering post.

**Sec. 15-908. Method of giving hand and arm signals.** Any stop or turn signal when required herein shall be given either by means of hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

- 1.** Left turn — hand and arm extended horizontally;
- 2.** Right turn — hand and arm extended upward; and
- 3.** Stop or decrease speed — hand and arm extended downward with palm to the rear.

**Sec. 15-909. Turns into or from alleys.**

**A.** No vehicles shall turn left when proceeding into or proceeding out of an alley except when necessary to enter a one-way street, and no vehicle shall cross any street or highway when proceeding into or proceeding out of any alley except as provided in the following subsection of this section.

**B.** Left turns may be made when proceeding out of an alley if a traffic survey conducted by the traffic engineer shows that such turn may be made safely and official signs are erected authorizing such turns.

C. The foregoing provisions of this section shall not apply to but terminals used by licensed and authorized bus lines.

## Chapter 10

### PEDESTRIANS

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**Sec. 15-1001. Pedestrians subject to traffic control signals.** Pedestrians shall be subject to traffic control signals as provided for in this code of ordinances, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this Chapter.

**Sec. 15-1002. Pedestrian's right-of-way at crosswalks.**

A. When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way slowing down or stopping, if need be, to so yield to a pedestrian crossing the roadway within a crosswalk when:

1. The pedestrian is upon the half of the roadway upon which the vehicle is traveling; or
2. The pedestrian is approaching so closely from the opposite edge of the roadway as to be in danger.

The provisions of this subsection are not applicable under conditions where pedestrians are required to yield pursuant to this Chapter.

B. No pedestrian shall suddenly leave a curb or other place of safety or walk or run into the path of the vehicle which is so close that it is impossible for the driver to yield.

C. Whenever any vehicle is stopped at a marked crosswalk, or any unmarked crosswalk, or at an intersection to permit a pedestrian to cross a roadway, the driver of any other vehicle approaching from the rear shall not overtake to pass such stopped vehicle.

**Sec. 15-1003. Pedestrians to use right half of crosswalk.** Pedestrians, when crossing the street at a crosswalk, shall move, whenever practicable, upon the right half of the crosswalk.

**Sec. 15-1004. Crossing at right angles.** No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb, except in a crosswalk.

**Sec. 15-1005. When pedestrians shall yield.**

A. Every pedestrian crossing a roadway at any point other than within a marked or unmarked crosswalk at any intersection shall yield the right-of-way to all vehicles upon the roadway.

B. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.

C. The provisions of this section are not applicable where pedestrian crossings are prohibited.

**Sec. 15-1006. Pedestrians walking along roadways.**

**A.** Where sidewalks are provided, it is unlawful for any pedestrian to walk along and upon an adjacent roadway.

**B.** Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practical, walk only on the left side of the roadway, or its shoulder, facing traffic which may approach from the opposite direction, and shall yield to approaching vehicles.

**Sec. 15-1007. Pedestrians prohibited from soliciting rides, business or donations from vehicle occupants.**

**A.** No person shall stand in a roadway for purpose of soliciting a ride, donations, employment or business from the occupant of any vehicle.

**B.** No person shall:

1. Stand in any street, roadway or park and stop or attempt to stop and engage any person in any vehicle for the purpose of soliciting contributions or the watching or guarding of any vehicle while parked or about to be parked on a street;
2. Sell or attempt to sell anything to any person in any vehicle;
3. Hand or attempt to hand to any person in any vehicle any circular, advertisement, handbill or any political campaign literature, or any sample, souvenir or gift; or
4. In any other manner, while standing in the street or roadway, attempt to interfere with the normal flow of traffic for any other similar purpose.

**Sec. 15-1008. Drivers to exercise due care.** Notwithstanding the foregoing provisions of this Chapter, every driver shall exercise due care to avoid colliding with any pedestrian upon any roadway, and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person on the roadway.

**Sec. 15-1009. Crossing prohibited.** Between adjacent intersection, at which traffic control signals are in operation, pedestrians shall not cross at any place except in a crosswalk. Pedestrians shall not cross any divided highway having a median in the center thereof, except in a crosswalk.

**Sec. 15-1010. Obedience of pedestrians to railroad signals.** No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed.

## Chapter 11

### BICYCLES

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**Sec. 15-1101. Application of bicycle regulations.** The provisions of this Chapter shall apply whenever a bicycle is operated upon any street or upon any public way; or upon any path set aside for the exclusive use of bicycles, subject to those exceptions stated in this Chapter.

**Sec. 15-1102. Application of traffic laws to bicycles.** Every person riding a bicycle upon a roadway shall be granted all the rights and shall be subject to all the duties applicable to the driver of a vehicle by the laws of this state and the traffic provisions of this code applicable to the driver of a vehicle, except as to special regulations in this Chapter and except as to those provisions of laws and ordinances which by their nature are inapplicable to such persons.

**Sec. 15-1103. Obedience to traffic control devices.**

**A.** Any person operating a bicycle shall obey the instructions of official traffic control signals, signs and other control devices applicable to vehicles unless otherwise directed by a police officer.

**B.** Whenever authorized signs are erected indicating no right or left or U-turn is permitted, no person operating a bicycle shall disobey the directions of such sign, except where such person dismounts from the bicycle to make any such turn, in which event, such person shall then obey the regulations applicable to the pedestrians.

**Sec. 15-1104. Riding on bicycles.**

**A.** No person operating a bicycle shall ride other than astride a permanent and regular seat attached thereto.

**B.** No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

**Sec. 15-1105. Riding on roadways and bicycle paths.**

**A.** Every person operating a bicycle upon a roadway shall ride as near to the right hand side of the roadway as practicable, exercising due care when passing a standing vehicle or a vehicle proceeding in the same direction.

**B.** Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or part of roadways set aside for the exclusive use of bicycles.

**C.** If usable paths for bicycles are provided adjacent to a roadway, bicycle riders shall use such paths and shall not use the roadway.

**Sec. 15-1106. Speed of bicycle.** No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

**Sec. 15-1107. Emerging from alley or driveway.** The operator of a bicycle emerging from an alley or driveway shall, upon approaching a sidewalk or sidewalk area extending across the alley or driveway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area. Upon entering the roadway, the bicycle operator shall yield the right-of-way to all vehicles approaching on the roadways.

**Sec. 15-1108. Carrying articles.** No persons operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand on the handle bars.

**Sec. 15-1109. Parking.** No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against the building or at the curb in such a manner as to afford the least obstruction to pedestrian traffic.

**Sec. 15-1110. Riding on sidewalks, other regulations.**

**A.** No person shall ride a bicycle upon a sidewalk within any commercially zoned area of the city.

**B.** The City Superintendent, subject to any directions given by the Council, is authorized to have erected signs on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person; and when such signs are in place, no person shall disobey the same.

**C.** Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

**D.** It shall be unlawful for any person at any time to ride any bicycle, motor bike, or other similar vehicle, on any sidewalk that is now or may hereafter be constructed on that portion of the following named streets to-wit:

- 1.** On any part of Cherokee Street lying and being between State Street and the Missouri Pacific Railway right-of-way;
- 2.** On any part of Main Street lying and being between North Second Street and Missouri Pacific Railway right-of-way;
- 3.** On any part of Church Street lying and being between Main Street and Lee Avenue;
- 4.** On any part of Casaver Avenue between North Second Street and Church Street; and
- 5.** To ride any such vehicle at any time between sunset and sunrise the following morning on any sidewalks in the City.

**Sec. 15-1111. Lamps and equipment on bicycles.**

**A.** Bicycles in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type which shall be visible from five hundred (500) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.

**B.** No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred (100) feet.

**C.** A bicycle shall not be equipped with, nor shall any person use while riding a bicycle, any siren or whistle.

**D.** Bicycles shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

## Chapter 12

### IMPOUNDMENT OF VEHICLES

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**Sec. 15-1201. Purpose and effect of impoundment provisions.** The impoundment of vehicles under authority of the provisions of this Chapter shall be construed as an enforcement procedure for protection of the public peace, safety and welfare, and the safeguarding of property, and shall be used generally for the prevention and removal of traffic hazards, prevention and abatement of public nuisances arising from traffic law violations, protection of the public rights in the use of streets and thoroughfares from obstructions placed and left in derogation of those rights, and for safeguarding and protecting recovered stolen vehicles.

**Sec. 15-1202. Place of impoundment.** Every vehicle that is impounded under the provisions of this Chapter shall be removed to the nearest garage or place of safekeeping designated by the City and to no other place.

**Sec. 15-1203. Duration of impoundment; impound fee.**

**A.** Except as otherwise provided, any vehicle impounded under the authority of this Chapter shall be stored and held safely until an order for its release is received from an officer of the traffic violations bureau or other proper police officer.

**B.** The order of release of an impounded vehicle shall be conditioned upon the payment by the person to whom the release is issued of an impoundment fee of \$50.00 and all other impoundment costs and accrued storage charges assessed against the vehicle.

(Amended: Ordinance No. 929 4/3/2017)

**Sec. 15-1204. Police granted authority to impound vehicles.** Members of the police department are hereby authorized within the limits set forth in this chapter to impound vehicles under the circumstances hereinafter enumerated. No impoundment shall be valid unless made under order of an authorized police officer and in strict adherence with the procedures required in this Chapter.

**Sec. 15-1205. Disabled vehicles.** A disabled vehicle upon a street or highway may be impounded under the following circumstances:

1. If left unattended and improperly parked on street or highway and constitutes a definite hazard or obstruction to the normal movement of traffic; or
2. If the person in charge of the vehicle is physically incapacitated to such extent as to be unable to provide for its custody or removal and the vehicle is so disabled as to constitute an obstruction to traffic or a hazard.

**Sec. 15-1206. Vehicles on bridge.** An unattended vehicle left upon any bridge, viaduct or causeway or in any tube or tunnel, where the vehicle constitutes an obstruction to traffic or hazard, may be impounded.

**Sec. 15-1207. Arrest and detention of driver of vehicle.** Whenever the driver or person in charge of any vehicle is placed under arrest and taken into custody and detained by police under circumstances which leaves or will leave a vehicle unattended on any street or highway, the vehicle may be impounded.

**Sec. 15-1208. Vehicle constitutes traffic hazard.** A vehicle left unattended upon any street, alley or thoroughfare and so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic shall be impounded.

**Sec. 15-1209. Illegal transport by vehicle.**

**A.** An unattended vehicle found to be in violation of this Code may be impounded when the required complaint has been properly made and filed as provided in this section.

**B.** If a violation of the provisions of this code occurs, the owner or legal occupant who complains shall sign a complaint against the person parking the vehicle on the owner's or legal occupant's property, or if the identity of the person parking the vehicle is unknown, then the complaint may be filed against the registered owner of the vehicle. The complaint shall be verified and shall allege that the complaining party is the owner or legal occupant of the property upon which the vehicle is parked or standing.



C. Upon filing of the complaint by the property owner or legal occupant, and if there appears to be proper cause to believe the provisions of this code have been violated, the police department shall cause the vehicle to be impounded from the property and placed in storage.

**Sec. 15-1210. Vehicles parked overtime.** Any unattended vehicle which has been parked for more than one hour in excess of the time allowed for parking in any place shall be impounded, and any vehicle parked in violation of this Code, regarding more than twenty-four (24) hours, shall be impounded.

**Sec. 15-1211. Vehicles blocking fire exits or hydrants.** Any vehicle illegally parked in such a manner that it blocks a fire escape ladder, device or exit or blocks access to a fire hydrant shall be impounded.

**Sec. 15-1212. Vehicles parked in intersection.** Any unattended vehicle illegally parked in any street intersection shall be impounded. A disabled vehicle in an intersection with the person in charge of the vehicle being present, shall be moved out of the intersection and to the nearest available legal parking space at the street curbing.

**Sec. 15-1213. Stolen vehicles; recovery by police.**

A. Whenever a stolen vehicle is located by police and the registered owner cannot be found within a reasonable time not exceeding one hour, or cannot be determined from the registration papers or other identifying media in the vehicle or from records or information available from reports of stolen cars, the vehicle may be removed to the nearest authorized place to impoundment and the registered owner of the vehicle shall be notified of the location of the place of impoundment as soon as possible by the police department.

B. If the registered owner is identified, located and notified of the recovery of the stolen vehicle, the owner shall be given the right to make his own arrangement for the removal of the vehicle within the period of one hour from the time he is actually notified of its recover, and if the owner is unable or unwilling to effect the removal within the time specified the vehicle may be impounded.

**Sec. 15-1214. Vehicles with outstanding traffic citations.** Any vehicle for which two (2) or more citations have been issued, for violation of an ordinance, and have not been presented as required, may be impounded if parked in violation of any provision of this Title.

## Chapter 13

### PENALTIES

Sec. 15-1301. Obedience to traffic code. . . . .	15.41
Sec. 15-1302. Penalties, specific and general. . . . .	15.41

**Sec. 15-1301. Obedience to traffic code.**

A. It is an offense against the city for any person to do any act forbidden or to fail to perform any act required by this Title.

B. It is an offense against the City for the parent of any child or the guardian of any ward to authorize or knowingly permit any such child or ward to violate any of the provisions of this Title.

C. It is an offense for any person to authorize or knowingly permit any vehicle registered in his or her name to be driven or to stand or to be parked in violation of any of the provisions of this Title.

**Sec. 15-1302. Penalties, specific and general.** Except as otherwise provided in this Title, any person violating any of the provisions of this Title, or who performs any unlawful act as defined in this Title, or who fails to perform any act required by this Title, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided by this Code.

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# Title 16

## AIRPORTS, TAXICABS AND RAILROADS

### Chaper 1

#### AIRPORTS

Sec. 16-101.	Airport department. . . . .	16.1
Sec. 16-102.	Duties of airport department. . . . .	16.1
Sec. 16-103.	Airport board, membership, meetings. . . . .	16.1

**Sec. 16-101. Airport department.** There may be an airport department, the head of which shall be the director of the airport appointed by the Mayor, and removable by the Mayor. He shall be an officer of the City, and shall have supervision and control of the airport department.

**Sec. 16-102. Duties of airport department.** It is the duty of the airport department, if established, to have charge of, control, operate, repair, maintain, and improve the airport and all other aviation facilities under the control of the city and to enforce and administer all airport or aviation regulations of the City and of the federal and state governments.

**Sec. 16-103. Airport board, membership, meetings.**

**A.** There shall be an airport board, which shall consist of five (5) members appointed by the Mayor with approval of the Council. The airport board shall be within the airport department when the airport department is functioning, but the board shall be in existence at all times, whether the City is operating the airport or whether it is leased out.

**B.** The terms of the members first appointed shall be staggered so that terms of two (2) members expire at 7:30 P.M. on the third Monday in April one year, terms of two (2) members expire at the same time the next year, and term of one member expires at the same time the following year. The terms of their respective successors shall be three (3) years, and shall expire at that time every third year: but members shall serve until their respective successors have been appointed and qualify. The Mayor, with approval of the Council, may fill vacancies for the unexpired terms. Members shall serve without compensation.

**C.** On the third Monday in April every year or as soon thereafter as practicable, the airport board shall elect a vice-chairman and a secretary; and the secretary need not be a member of the board. The board shall determine the time and place of its regular meetings; and the chairman or any three (3) members, may call special meetings of the board.

**D.** The airport board may consider any matter relating to aviation and the airport or airports of the City, and provide information and make recommendations thereon to the city council, as the board may consider and upon which it may report, are the following: acquisition, disposal, enlargement, decrease, improvement, leasing, maintenance, operation, and finance of airports and other aviation facilities.

### Chaper 2

#### TAXICABS

Sec. 16-201.	Definitions. . . . .	16.2
Sec. 16-202.	Vehicle license fees. . . . .	16.2

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Sec. 16-205.	Vehicles to be in safe condition; inspection. . . . .	16.2

**Sec. 16-201. Definitions.** The word “taxicab” as used in this chapter shall mean all motor vehicles propelled and operated for transportation of passengers for hire wholly within the City and which shall be marked as such, subject to call from a garage, office, taxi stand, or otherwise, and whether hired directly or indirectly by donation, prescription, contract, specified rate, or otherwise, except the rental of cars without drivers, motor buses running and operating on established routes, funeral and ambulance vehicles.

**Sec. 16-202. Vehicle license fees.**

**A.** No person or any owner, agent, employee, or driver shall operate a motor vehicle or permit to be operated as a taxicab unless the proper license has been issued to the owner thereof or to the person using the vehicle in carrying on the taxicab business. Every license shall expire on the 30th day of June next following the date of issue and no license shall be prorated.

**B.** License fees for each taxicab shall be payable to the City Clerk in the amounts per annum or fraction thereof as set by the Council.

**C.** The license fee required by this section shall be in addition to any fee required by the laws of the State.

**Sec. 16-203. Indemnity to be provided.** It is unlawful to operate a taxicab, or permit the same to be operated within the City until and unless the ownership thereof is shown by certificate of title issued under the laws of the state to such owner and unless and until such owner deposits with the City Clerk a policy or bond or liability insurance with adequate and sufficient surety to be acceptable to and approved by the City Clerk and City Attorney indemnifying the owner in the sum of not less than that amount which is required by Section 7-204 of Title 47 of the Oklahoma Statutes. Such policy or bond so deposited shall contain obligating the surety thereon to give ten (10) days written notice before cancellation thereof to the City Clerk. Any vehicle’s license shall expire upon the lapse or termination of any policy.

**Sec. 16-204. Application for license.** An application for a license to operate any taxicab shall be in writing verified by the applicant or his duly authorized agent and shall be filed with the City Clerk. Such application shall state the following facts:

1. The name of the applicant; if a partnership, the name and address of all the partners; if a corporation, the name and address of the officers and directors thereof;
2. The address of the principal place of business of such applicant;
3. The name of manufacturer of each car and the state license number thereof and the length of time each car has been in use;
4. A statement of the names, addresses and license identification card numbers of all drivers in the operation of such business; and
5. Trade name under which applicant does or proposes to do business.

**Sec. 16-205. Vehicles to be in safe condition; inspection.** All taxicabs must be maintained in accordance with the traffic ordinances of the City.

## Chapter 3

### RAILROADS

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**Sec. 16-301. Speed within City.** It is unlawful and an offense for any person to operate, or to assist in operating, any steam or diesel railway engine, train, car or cars, over any street crossing at gate within the City at a greater rate of speed than twenty-five (25) miles per hour.

**Sec. 16-302. Construction and maintenance of railroad crossings.** It is the duty of each and every railroad company, or the lessees or the operators thereof, whose railroad tracks run into or through the City, where any such track intersects or crosses any highway, street, alleys and sidewalks at such intersections or crossings in the following manner, or in a manner equal thereto. At the point where such track or tracks intersect or cross any such highway, street alley or sidewalk such track or tracks shall be made to conform to the established grade of such public highways, streets, alleys or sidewalks, and shall be securely laid with the same material and in like manner thereon which shall extend the entire width of such public highways, streets, alleys and sidewalks, or as far as such track or tracks extend thereon, and for the width of two (2) feet on both sides of such track or tracks and between the rails thereof; such grading, paving and constructing and the repairs thereof to be done and maintained in good condition by the company or companies owning, controlling or operating such railroad in every case to the satisfaction of the City.

**Sec. 16-303. Blocking streets.** It is unlawful for any firm, person or corporation to operate a railroad train within the City in such a manner as to bring the train to a halt so that the train blocks any street, boulevard or road for a period in excess of eight (8) minutes.

**Sec. 16-304. Boarding railway vehicles in motion.** No person in the City, not being an employee of a railroad company, shall get upon, hold on to, board, or alight from any railroad car, tender or engine while in motion.

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# Title 17

## UTILITIES

### Chapter 1

#### GENERAL PROVISIONS

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#### **Sec. 17-101. Lease of systems.**

**A.** The City has leased the operation of its water, sewer, electrical and stormwater management systems to the Wagoner Public Works Authority, including setting rates for use of the systems and all regulations governing them. For a copy of current rates and rules, see the minutes and/or regulations of the Wagoner Public Works Authority.

**B.** The Wagoner Public Works Authority is granted the exclusive right to provide sewer water, sewer, electrical and stormwater management systems to consumers in the City.

(Amended: Ordinance No. 958 6/6/2022)

### Chapter 2

#### STORMWATER MANAGEMENT

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## Article A

### STORMWATER MANAGEMENT PROGRAM

Sec. 17-201.	Findings of fact. . . . .	17.2
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**Sec. 17-201. Findings of fact.** The City of Wagoner makes the following findings of fact:

1. Because of its physical terrain and geographical location, the City is particularly subject to damage from stormwater runoff, which, from time to time, overflows from existing watercourses and drainage facilities;
2. Floodplain areas of the City are subject to periodic inundation which may result in the loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare;
3. The flood losses are created by the cumulative effect of obstructions in floodplains and increase of impervious areas which cause an increase in stormwater runoff resulting in an increase in flood heights and velocities, and by the occupancy of floodplain areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed, or otherwise protected from flood damage;
4. Regulations addressing drainage requirements for new land development must be replaced by a comprehensive approach in order to prevent or minimize damage to property and to reduce the potential for loss of life;
5. A comprehensive approach to managing stormwater runoff and floodplain management is required to address existing and future needs;
6. The presently existing stormwater drainage facilities of the City require continuous operation, maintenance, renewal and replacement;



7. While the City does not own all drainage facilities or floodplain lands within its jurisdiction, it does own or control portions of the stormwater conveyance systems in each of the major drainage basins so as to make a unified approach to flood issues a desirable and administratively achievable goal;

8. The stormwater management program should be funded in the manner of a public utility.

(Renumbered from Sec. 5-1101 by Ordinance No. 958 6/6/2022)

**Sec. 17-202. Purpose.** It is the purpose of this chapter to improve the promotion of public health, safety and welfare by providing for, acquiring, constructing, operating, equipping, and maintaining within the City, the stormwater management program and to provide a source of funding for the system. Management of the stormwater management program is intended to:

1. Protect human life, health, and property;
2. Minimize public and private storm and flood losses from stormwater runoff in the City;
3. Minimize expenditure of public money for costly flood control projects;
4. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
5. Assure that the movement of emergency vehicles is not prohibited nor inhibited during storm or flood events;
6. Minimize prolonged business interruptions;
7. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
8. Support a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas;
9. Ensure that information is available to potential buyers and developers that property may be located in a flood area;
10. Assure that each lot be provided with a reasonably safe building site with adequate access and that facilities be installed with protection against stormwater drainage or flood damage at the time of initial construction;
11. Provide a stormwater drainage system and open areas for new developments which are capable of passing the regulatory flood (1%) without flooding structures designed for residential, commercial, industrial, and other uses;
12. Control filling, grading, dredging and other development which may increase erosion or flood damages;
13. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands;
14. Preserve the quality of the City's watercourses, minimize water quality degradation, and otherwise facilitate urban water resource management techniques, including the reduction of pollution and the enhancement of the urban environment;
15. Protect the natural areas required to convey flood flows, and protect and preserve the water-carrying and water-retention characteristics and capacities of the floodplain used for conveying and retaining floodwaters;
16. Comply with the regulations of the National Flood Insurance Program as established by the Federal Insurance Administration including but not limited to the minimum criteria identified in 44 CFR Chapter 1, Parts 59 and 60.1 through 60.13;

17. Comply with the current Floodplain Ordinance for the City of Wagoner;
18. Design and implementation of larger regional stormwater detention facilities having greater efficiency than smaller on-site detention facilities;
19. Assure that no new structures are constructed without compliance with this chapter;
20. Ensure that those who occupy the regulatory flood area assume responsibility for their actions;
21. Maintain the ultimate urbanized regulatory floodplain, without significant change, by avoiding activities that have caused the floodplain to grow in size in other cities;
22. Aid properties in which structures were built in areas of special flood hazard through human error or prior to regulatory controls being effective;
23. Provide a penalty for violation of established policies and regulations.

(Renumbered from Sec. 5-1102 by Ordinance No. 958 6/6/2022)

**Sec. 17-203. Definitions.** Unless otherwise provided in this chapter, the following words and phrases shall have the meanings given herein:

1. Adverse effects. Increased flood elevations, increased velocity of floodwaters, and erosion are adverse effects resulting from stormwater runoff.
2. Appeal. A request for a review of the City of Wagoner's interpretation of any provision of Sec. 17-205.2 or Sec. 17-265 of this chapter, or a request for a variance.
3. Area of special flood hazard. The base flood area identified by the Federal Emergency Management Agency (FEMA) in the numerous flood insurance studies, including the Flood Insurance Rate Maps (FIRM). These maps were based on lands having a one percent chance of being flooded in any given year as identified by FEMA.
4. Backwater curve. A rise in water surface elevation as a stream moves from a less constricted area to either a ponding area or more constricted area.
5. Base flood area. The areas of flood hazard identified by the Federal Emergency Management Agency (FEMA) in the numerous flood insurance studies, including the Flood Insurance Rate Maps (FIRM). These maps were based on lands having a one (1%) percent chance of being flooded in any given year as identified by FEMA.
6. Base flood elevation (BFE). The elevation for which there is a one percent chance in any given year that flood levels will equal or exceed it. The BFE is determined by statistical analysis for each local area and designated on the Flood Insurance Rate Maps. It is also known as the FEMA one percent chance (100-year) flood elevation. The BFE is used to determine the base flood area.
7. Bridge. A structure consisting of abutments, load bearing beams and/or deck, whose main function is to carry vehicular or pedestrian traffic across a depression.
8. Channel. A natural or artificial watercourse with a defined bed and banks to confine and convey flowing water.
9. Channel capacity. The maximum flow that can pass through a channel without overflowing the natural channel banks.
10. Channel improvements. Widening, straightening, clearing, grade alterations, paving or concrete lining, Low Impact Development grass-lined, or any construction, which will increase the carrying capacity of a channel.
11. Compensatory flood storage. The volume of storage provided to replace any measurable loss of flood storage capacity within floodplain areas, or to eliminate the increases in velocity or flood height, which would otherwise occur as a result of construction.

- 12. Critical feature.** An integral and readily identifiable part of a flood-protection system, without which the flood protection provided by the entire system would be compromised.
- 13. Culvert.** A circular, rectangular, arch, elliptical or other enclosed conduit constructed of various materials whose purpose is to convey stormwater from one side of a travelway (driveway, street, trail, sidewalk) to the other side of the travelway.
- 14. Detention facility.** A type of flood control system which delays the downstream progress of floodwaters in a controlled manner, generally through the combined use of a temporary stormwater storage area and a metered outlet device that causes a lengthening of the duration of flow, and thereby reduces downstream flood peaks. Stormwater detention facilities are either on-site which serve individual developments or subdivisions; or regional, which serve existing and future developments within a specified topographic region.
- 15. Development.** Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials.
- 16. Drainage basin.** The total area from which surface runoff is carried away by a drainage system or channel. Other comparable terms are "drainage area", "catchment area", or "watershed."
- 17. Drainage basin plan.** The plan adopted by the City for managing surface and stormwater facilities within an individual drainage basin.
- 18. Drainage course.** The natural or improved land area required for transportation of stormwater.
- 19. Earth Change.** Excavating, grading, regrading, landfilling, berming, or diking of land within the City of Wagoner. Earth change will also include the clearing or removal of more than six healthy trees on a parcel, or activities commonly called clearing and grubbing within the boundaries of the regulatory floodplain.
- 20. Elevated building.** A nonbasement building built, in the case of a building in Zones A1-30, AE, A, A99, AO, B, C, X and D, to have the top of the floor elevated above the ground level by means of foundation walls, pilings, columns (post and piers), or shear walls parallel to the level of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. "Elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.
- 21. Encroachment.** Any physical object placed in a stormwater drainage system or floodplain that hinders the passage of water or otherwise affects flood flows.
- 22. Equal degree of encroachment.** The delineation of floodway limits so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the hydraulic conveyance of the floodplain along both sides of a stream for a significant reach.
- 23. Equivalent service unit (ESU).** Two thousand six hundred fifty square feet of impervious surface.
- 24. Existing construction.** Structures for which the "start of construction" commenced before the effective date of the FIRM or before October 19, 1982, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."
- 25. Existing impervious area.** For the purpose of calculating equivalent service units, existing impervious area is defined as areas of impervious surface that appear on the Soil Conservation Service aerial photographs.
- 26. Expansion to an existing manufactured home park or mobile home subdivision.** The preparation of additional sites by the construction of facilities servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

**27. Federal Emergency Management Agency (FEMA).** The Federal agency responsible for administering the National Flood Insurance Program.

**28. Flood or flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a.** The overflow of inland waters; or
- b.** The unusual and rapid accumulation of surface waters from any source.

**29. Flood frequency.** A statistical expression of the average time period between floods equaling or exceeding a given magnitude. For example, a 100-year flood has a magnitude expected to be equaled or exceeded on the average of once every 100 years; such a flood has a one percent chance of being equaled or exceeded in any given year. Often used interchangeably with recurrence interval.

**30. Flood Hazard Boundary Map (FHBM).** An official map of a community, approved by the Federal Insurance Administration, where the areas within the boundaries of special flood hazards have been designated as Zone A.

**31. Flood Insurance Rate Map (FIRM).** An official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**32. Flood Insurance Study.** The official report provided by the Federal Insurance Administration which contains flood profiles, the water surface elevation of the base flood, as well as the flood hazard boundary-floodway map.

**33. Floodplain.** Any land area susceptible to being inundated by water from any source (see definition of flood).

**34. Floodplain Administrator.** The designated official responsible for the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain regulations.

**35. Floodplain Management.** The operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**36. Flood profile.** A graph showing the relationship of water surface elevation to a specific location, the latter generally expressed as distance above the mouth of a stream of water flowing in an open channel.

**37. Floodproofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved property, water and sanitary facilities, structures and their contents.

**38. Flood protection system.** Those physical structure works, for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, channels, storm sewers, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

**39. Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height (one foot or less by current FEMA requirements). NFIP communities that have an identified floodway must not allow any development in the floodway unless it can be shown that the development will not cause an increase in flood heights. See City of Wagoner Stormwater Criteria Manual.

- 40. Flood zones.** Zones on the flood insurance rate map (FIRM) in which the risk premium insurance rates have been established by a flood insurance study.
- 41. Freeboard.** Freeboard is a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factor that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.
- 42. Functionally dependent use.** A use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- 43. Habitable floor.** Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used for storage purposes only is not a “habitable floor”.
- 44. Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 45. Hydraulics.** The science that deals with practical applications of liquid or water in motion.
- 46. Hydrology.** The science of the behavior of water in the atmosphere, on the earth’s surface, and underground.
- 47. Impervious surface.** Any hard surfaced area which prevents or retards the entry of water into the soil in the manner and to the extent that such water entered the soil under natural conditions, causing water to run off the surface in greater quantities or at an increased rate of flow than was present under natural conditions. Examples include but are not limited to rooftops, asphalt or concrete sidewalks, pavement, driveways and parking lots, walkways, patio areas, storage areas, gravel areas, and oiled macadam or other surfaces which similarly affect the natural infiltration or runoff patterns of real property in its natural state.
- 48. Levee.** A human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.
- 49. Levee system.** A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are designed, constructed and operated in accordance with sound engineering practices.
- 50. Manufactured or Mobile home.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For flood insurance purposes, the term “manufactured home” does not include park trailers, travel trailers and other similar vehicles.
- 51. Manufactured or Mobile home park or manufactured home subdivision (existing).** A parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this chapter.
- 52. Manufactured or Mobile home park or manufactured home subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final or site grading or the pouring of

concrete pads, and the construction of streets) is completed on or after the effective date of this chapter.

**53. Master Drainage Plan.** An officially adopted plan which, by engineering design and study, describes storm drainage system improvements which will most adequately, feasibly and economically control stormwater runoff to minimize or eliminate future danger to people and property because of floodwaters.

**54. Mean Sea Level.** The average height of the sea for all stages of the tide. For the purposes of floodplain management, the National Geodetic Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations are referenced.

**55. Minimum structure (commercial or residential) flood elevation.** An elevation of a basement floor or lowest floor which is twelve (12) inches above the maximum high water elevation of the regulatory flood. If such a floor is placed on top of or above a pad in accordance with the applicable building codes, that pad must be at the regulatory flood protection elevation.

**56. Mobile home.** See the definition for manufactured home.

**57. Natural conditions.** The cover and topography of the land before any human-made changes; in areas where there have already been human-made changes before the effective date of this chapter, natural conditions shall mean the state of cover and topography of the land existing upon the effective date of this chapter. Requiring land to be maintained as "natural condition" does not forbid the removal of debris or the cutting and removal of dead or diseased trees or similar vegetation.

**58. New construction.** For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of this chapter, provided that construction began in violation of previous floodplain management ordinances may be treated as it newly began under the ordinance to the extent of the prior violation.

**59. 100-year flood.** The flood elevation that has a one (1%) percent chance of being equaled or exceeded in any given year. It is also known as the Base Flood or one percent chance flood.

**60. One percent chance storm.** The rainfall event that has a one percent chance of being equaled or exceeded in any given year. It is also known as the 100-year storm.

**61. Overland flow.** That portion of stormwater flow which is conveyed as a shallow sheet flow across land rather than concentrated in a channel or storm sewer system.

**62. Reach.** A hydraulic engineering term used to describe longitudinal segments of a channel or river.

**63. Regulatory flood.** A flood that is reasonably characteristic of what can be expected to occur on a particular stream as a result of urbanization. The regulatory flood has a one (1%) percent chance of occurring in any one year, as determined from analysis of expected rainfalls in the general region. Runoff and water surface elevations for the regulatory flood shall be based on ultimate urbanization upstream.

**64. Residential property.** Any property designed and used principally for residential single-family or duplex purposes and developed according to and meeting the bulk and area requirements for residential single-family or duplex zoned property as set forth in the Wagoner County Metropolitan Area Zoning Ordinance at the time of development of such property.

**65. Retention facility.** A type of flood control system (typically a reservoir) that stops the downstream progress of floodwaters by employing methods of total containment. Runoff is usually removed from storage by infiltration, evaporation, pumping, or at a release rate smaller than historic flow value. A Retention facility shall have the capability of storing the stormwater runoff from a 1% 24-hour storm event.

**66. Runoff.** That portion of precipitation that is not intercepted by vegetation, absorbed by the land surface, or evaporated, and thus flows overland into the stormwater drainage system.

**67.** Start of construction. Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, replacement or other improvement was within 180 days of the permit date. The actual start means either the 1) first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or 2) the placement of a manufactured home on a foundation. Permanent construction does not include a) land preparation, such as clearing, grading and filling; nor b) excavation for basement, footings, piers or foundations or the erection of temporary forms; nor c) the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**68.** Stormwater drainage system. Any facility, structure, improvement, development, equipment, property or interest therein, including structural and nonstructural elements, which are made, constructed, used or acquired for the purpose of collecting, containing, storing, conveying and controlling stormwater wherever; this is located including, but not limited to, storm sewers, conduits, natural and human-made channels, roadways, pipes, culverts, detention facilities and floodplains whether publicly or privately owned.

**69.** Stormwater drainage system service charge. The fee levied within the City of Wagoner for the use of any portion of the City's stormwater drainage system.

**70.** Stream. A body of water flowing in a surface channel. Flow may be continuous or only during wet periods. Streams that flow only during wet periods are termed "intermittent streams."

**71.** Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the fair market value of the structure before the damage occurred.

**72.** Substantial improvement. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the fair market value of the structure either:

**a.** Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications, which are solely necessary to assure safe living conditions; or

**b.** Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**73.** Ten percent chance storm. The rainfall event that has a ten percent chance of being equaled or exceeded in any given year. It is also known as the ten-year storm.

**74.** Twenty percent (5-Yr) chance storm. The rainfall event that has a twenty percent chance of being equaled or exceeded in any given year. It is also known as the five year storm.

**75.** Two percent chance storm. The rainfall event that has a two percent chance of being equaled or exceeded in any given year. It is also known as the 50 year storm.

**76.** Variance. A grant of relief to a person from the requirements of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a matter otherwise prohibited by this chapter.

**77.** Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR Chapter 1, Parts 59 and 60.1 through 60.13 of the National Flood Insurance Program Regulations and this chapter is presumed to be in violation until such time as that documentation is provided.

**78.** Watercourse. A natural or human-made channel that gives direction to stormwater runoff.

**79. Water surface elevation.** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of riverine areas.

(Renumbered from Sec. 5-1103 by Ordinance No. 958 6/6/2022)

**Sec. 17-204. Local Administrator.** The local administrator (Stormwater Manager) shall be appointed by the Mayor with approval by the City Council. The local administrator shall exercise all lawful powers necessary and appropriate with the concurrence of the Mayor under the City of Wagoner's stormwater management program and shall have the authority to:

1. Develop and administer all phases of a comprehensive program of stormwater management including planning, designing, establishing, acquiring, constructing, developing, installing, maintaining, operating, improving, repairing, replacing, and reconstructing the stormwater drainage system of the City;
2. Administer the recordkeeping and support personnel and recommend the budget necessary for the efficient operation of the stormwater management program;
3. Enforce the regulations contained in this chapter, including coordination with other departments and agencies;
4. Perform studies and analyses required to establish or modify the stormwater management program;
5. Provide for public information and awareness that will improve management and reduce hazards to life and property;
6. Establish a flood alert and early warning system in cooperation with emergency response agencies;
7. Seek the cooperation of counties, other municipalities, and the development community within the area in minimizing the contribution of all stormwater drainage systems to flooding and, in particular, to cooperate with other affected political jurisdictions in preparing and implementing master drainage plans;
8. Review, approve or deny all stormwater applications for watershed and earth change development permits required by this chapter.

(Renumbered from Sec. 5-1104 by Ordinance No. 958 6/6/2022)

**Sec. 17-205. Stormwater drainage board.** There is hereby created a stormwater drainage board for the purpose of providing policy guidance to the Mayor and Stormwater Manager. The board shall be comprised of the members of the Wagoner Public Works Authority (WPWA). The purposes and duties of the stormwater drainage board shall be:

1. To provide an exchange of information between the public and City officers on stormwater drainage problems in the City;
2. To hear and consider applications for variances and appeals from decisions of the stormwater manager.

(Renumbered from Sec. 5-1105 by Ordinance No. 958 6/6/2022)

**Sec. 17-206. Master drainage plans.** The local stormwater manager shall develop a Citywide master drainage plan which will include a drainage basin plan for each major drainage basin throughout the City. The objectives of the master drainage plan are described as follows:

1. Define the hydrologic characteristics of the basins for existing development and ultimate urbanized development;
2. Simulate the stormwater runoff within the basin and determine the hydraulic capabilities of the existing stormwater drainage system;
3. Provide floodplain delineation to depict the extent of flooding along the basin's watercourses;



4. Develop viable flood control plans to control flooding and drainage problems within the basin;
5. Provide cost/benefit analysis of the proposed flood control plans to be used as a tool in determining funding and scheduling of future drainage improvements;
6. Identify the areas in which the City can accept a fee-in-lieu of on-site detention based on the use of regional stormwater detention facilities;
7. Propose areas for future regional stormwater detention facilities.

(Renumbered from Sec. 5-1106 by Ordinance No. 958 6/6/2022)

**Sec. 17-207. Stormwater management program audit.** The local stormwater manager shall submit an annual audit of the stormwater management program to the stormwater drainage board by the first day of November each year.

(Renumbered from Sec. 5-1107 by Ordinance No. 958 6/6/2022)

## Article B

### WATERSHED DEVELOPMENT REQUIREMENTS

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**Sec. 17-231. Stormwater drainage system.**

**A.** All stormwater runoff shall be subject to review and approval by the City with regard to analysis, design and construction of drainage facilities. The appropriate public authority shall have the right to maintain, or cause to be maintained, the drainage system for its intended purposes. If a basin master drainage plan is adopted for the area under consideration, then the provisions of the plan shall be adhered to unless amended.

**B.** The stormwater drainage system, both public and private, may consist of (1) roadways, storm sewers, stormwater detention facilities, stormwater retention facilities, improved channels; (2) unimproved drainage ways left in their natural condition; (3) the areas covered by drainage way easements for the purpose of providing overland flow; and (4) all appurtenances to the above including inlets, manholes, junction boxes, headwalls, dissipaters, culverts, etc. All portions of the drainage system that exist on or in dedicated street rights-of-way or property owned by the City in fee shall be owned and maintained by the City, unless provided otherwise by agreement or covenant. Improved and natural channels on private property shall be maintained by the property owners. In this context, the removal of dead or dying trees or storm debris shall not be considered to alter the channel so as to make it no longer a natural channel.

**C.** Every development shall be provided with a stormwater drainage system designed by a professional engineer registered in the State of Oklahoma, adequate to serve the development, and otherwise shall meet the approval requirements of the officials having jurisdiction.

**D.** The stormwater drainage system shall be designed so that property owners located downstream from and upstream from the development shall not be injuriously affected by the construction, operation, or maintenance of such system.

**E.** The stormwater drainage system plans prepared and sealed by a registered professional engineer shall show both plan and profile views of the proposed improvements. Any manhole or access point to the system that is buried out of sight shall be dimensioned to permanent objects in the vicinity.

**F.** The stormwater drainage system shall be designed to receive and pass the runoff from a one percent chance (100-Yr) storm. In areas covered by the regulatory flood area, that data shall govern. In areas not covered by the regulatory flood area, the design engineer shall prepare and submit a study for the area. The one percent (100-Yr) regulatory flow shall be confined within the said stormwater drainage system.

**G.** A minimum of the 20 percent (5-Yr) chance and one percent (100-Yr) chance storms shall be evaluated when designing the stormwater drainage systems. The Stormwater Manager may require additional evaluations including, but not limited to, the 1-Yr, 2-Yr, 10-Yr, 25-Yr, 50-Yr and 500-Yr storm frequency events.

(Renumbered from Sec. 5-1131 by Ordinance No. 958 6/6/2022)

**Sec. 17-232. Stormwater collection system.**

**A.** The stormwater collection system shall be designed either:

1. To pass a minimum of the runoff from a 20 percent chance (5-Yr) storm in a pipe network together with an overland flow path with capacities so that the combination of the two will pass the runoff from a one percent chance (100-Yr) storm under ultimate urbanized conditions.
2. Or, to pass the entire runoff from a one percent chance (100-Yr) storm in the pipe network. Should the entire runoff from a one percent chance storm be conveyed in an enclosed drainage network, grading shall be designed to convey the runoff from the one percent chance storm overland in the event of inlet or storm sewer blockage or bypass.
3. In either case, an overland drainage easement shall be required for overland flows. No overland flows shall be allowed to adversely affect any residential or non-residential structures.
4. In areas where overland flows may cause problems, the local administrator may require that the entire runoff from the one percent chance storm shall be conveyed through an enclosed drainage network.
5. In areas where ultimate urbanized flows are not planned for conveyance to a regional detention facility, the local administrator may reduce the capacity requirement to the 1% (100-Yr) condition flows.

**B.** The overland flow portion of the collection system shall be confined to dedicated rights-of-way, or drainage easements to assure the stormwater can pass through the development without inundating the lowest level of any building, dwelling, or structure. All drainage easements shall be shown on the plat.

**C.** The distance between inlets, as well as the distance to the first inlet on a street shall be determined by the lesser of the following:

1. For the one percent chance storm, water depth shall not exceed the top of curb, or
2. Six hundred feet.

**D.** At sump locations, the water depth shall not exceed six inches above the top of curb, or 12 inches above the top of grate, whichever is less, for the one percent chance storm. Where sump collection systems are used, an overflow route shall be provided in the event of a complete blockage of the inlet of pipe. If the inlets and pipe are sized for the one percent chance storm, a sod overflow can be used. If a 20 percent chance storm inlet and pipe system is designed, the overflow area shall be concrete lined. When a sod overflow structure is constructed, it shall be lined with Bermuda grass or approved equal and shall contain energy dissipaters, if required at the outflow point.

**E.** Driveway approaches shall be designed and constructed so that the runoff from the one percent chance storm shall not leave the roadway except in locations where the driveway is designed as part of the drainage system.

**F.** Runoff from areas greater than one-half acre outside the roadway of arterial and collector streets shall be collected before it reaches the roadway. In no circumstance shall concentrated flows be allowed to discharge into arterial streets. Parking lots shall have internal drainage systems so as to reduce concentrated flow onto streets. This requirement shall not apply to residential lots used as single-family residences. The local administrator may approve sheet flows to the subject streets when connecting to an underground storm sewer system is not economical. In sheet flow instances, the developer must prove no adverse impact to the traveling public, and that the street drainage system is capable of conveying the increased flows. Consideration shall also be given to the icing of streets during the winter time.

**G.** Site grading shall provide surface water drainage directly into a storm sewer, natural drainage course, improved channel, or paved street without crossing more than four adjacent lots.

**H.** No inlets shall be designed for placement within driveways or entries unless individually approved by the local administrator.

**I.** Drainage or utility easements of satisfactory width to provide working room for construction and maintenance shall be provided for all stormwater collection systems. In no case shall the total easement width be less than ten feet.

**J.** All improved open drainage courses shall be maintained by the owner of the land upon which they are located and by the person or entity actually occupying the land upon which the improved open drainage courses are located. Maintenance called for by this section shall be performed as often as necessary to keep the drainage course free of debris and any wild growth above the height of 18 inches above the finished grade of the improved drainage course. Maintenance as necessary to keep sedimentation from exceeding 12 inches in depth above the finished grade will also be performed. In the event that a person or entity charged with the maintenance of an improved open drainage course allows sedimentation in excess of the limits prescribed above, or allows wild growth or debris in excess of the limits prescribed above, to accumulate within the improved open drainage course, and the premises upon which the sedimentation, wild growth, or debris is allowed to accumulate is hereby expressly declared to be a nuisance. In addition to any other remedies available to the City, such nuisances may be abated in the manner provided under the Wagoner Building Code for any other nuisance.

(Renumbered from Sec. 5-1132 by Ordinance No. 958 6/6/2022)

**Sec. 17-233. Cross street drainage structure requirements.**

**A.** Bridges. New structurally spanned bridges shall have adequate capacity to pass the one percent chance storm ultimate urbanized flows with one foot of freeboard under the low chord. A hydraulic backwater computer analysis shall be provided to illustrate compliance with this requirement and to insure there are no adverse downstream or upstream impacts.

**B.** Culverts. New culverts under public roads shall have adequate capacity to pass the one percent chance storm ultimate urbanized flows with a maximum water surface elevation not exceeding six inches below the lowest pavement (or gutter) elevation in the roadway sump. A hydraulic backwater computer analysis shall be provided to illustrate compliance with this requirement and to ensure there are no adverse downstream or upstream impacts.

**C.** Upon review of the hydraulic backwater computer analysis, should it determine that adverse impacts may occur from the construction of new structurally spanned bridges and/or culverts under public roads, the City, through the local administrator, may authorize the design for construction of such bridges and/or culverts to convey less than ultimate urbanized flows in a manner that does not violate subsection Sec. 17-232(D) of this article.

(Renumbered from Sec. 5-1133 by Ordinance No. 958 6/6/2022)

**Sec. 17-234. Stub street drainage requirements.** When a stub street is included in a subdivision design, it shall include provisions for drainage of the stub street until such a time as the stub street is connected to the extended street system. Design of stub streets will contain the following minimum provisions for drainage:

1. Stub streets which drain into the development under design will not require special drainage structures.
2. Stub streets which drain away from the development will require a drainage easement on the adjoining property with a one percent chance storm flow capacity ditch to a point of natural drainage or concrete curb and gutter across the end of the street, with storm inlets tied to an operational storm sewer system.

(Renumbered from Sec. 5-1134 by Ordinance No. 958 6/6/2022)

**Sec. 17-235. General storage requirements.**

**A.** Stormwater detention storage shall be required to accommodate excess runoff from all storms from the 20 percent chance storm up to the one percent chance storm. Excess runoff is that runoff generated due to urbanization which is greater than the runoff historically generated under existing conditions, for a given frequency storm. Stormwater detention facilities shall be designed so that the peak rate of discharge does not exceed that of the existing conditions and that the downstream effects do not cause an increase in peak flows due to the lag time release from the stormwater detention facility that is coincident with the main stem hydrograph.

**B.** Peak release rates from private developments shall not exceed the existing runoff that occurred before development for all storm frequencies up to and including the one percent chance storm. The 20 percent chance, ten per cent chance, two percent chance, and one percent chance storms shall be investigated at a minimum.

**C.** Public regional detention facilities may be designed with one percent chance storm outflow rates equal to or lower than pre-development values with possible increased flow rates for the 20 percent chance, ten percent chance, and two percent chance storms from pre-development flow rates under those conditions where downstream areas are not adversely impacted.

**D.** If the development is situated in such a manner that the stormwater is discharged into a stormwater system which the local administrator determines will not be adversely affected, the developer may make a monetary payment or some other form of valuable consideration to the City in accordance with Sec. 17-237 of this chapter, in lieu of constructing an on-site stormwater detention facility.

**E.** Changes may be made to streams or channels within the regulatory flood fringe area; subject to approval of the local floodplain administrator, provided that:

1. The volume of floodwater storage is not reduced;
2. Neither downstream or upstream water surface elevations are adversely increased; and
3. All required permits are obtained prior to starting work.

**F.** Stormwater detention or other storage facilities shall not be located in street rights-of-way or easements unless it is placed in an enclosed storm sewer system.

(Renumbered from Sec. 5-1135 by Ordinance No. 958 6/6/2022)

**Sec. 17-236. Acceptable types of storage.** The following are acceptable types of stormwater detention or stormwater retention facilities:

1. Dry stormwater detention facilities: Such facilities must be provided with underground drainage system or a concrete trickle channel or a low impact development channel to eliminate standing water after storm periods. This type of facility may be used for recreational purposes and other approved uses to the maximum extent possible when not functioning as a stormwater detention facility.

2. Wet stormwater detention facilities: Such facilities will be used on a limited basis and will be approved only when the pond inflow is sufficient to maintain pond water surface levels and to preclude the water from stagnating or becoming infested with mosquitoes or other insects.

3. Underground stormwater detention facilities: This type of facility may consist of basins, tanks, and or oversized storm sewer pipes.

4. Parking lot stormwater detention: This type of facility may be used provided the maximum one percent chance storm ponding depth is 12 inches or less. Any repaving of the parking lot shall be evaluated for impact on volume and release rates and are subject to approval by the local administrator. All parking lot stormwater detention areas shall have a minimum of two signs posted identifying the detention pond area. The signs shall have a minimum of one and one-half (1.5) square feet and contain the following message:

**“WARNING**

This area is a stormwater detention facility and is subject to periodic flooding to a depth of (provide one percent chance storm design depth).”

Any suitable materials and geometry of the sign is permissible, subject to approval by the local administrator.

5. Retention facilities: Such stormwater retention facilities may be used when the existing conditions runoff from a watershed would exceed the capacities of downstream facilities. The stormwater retention facility shall contain the one percent chance 24-hour duration stormwater runoff and release shall be by evaporation, infiltration or slow release at outflow rates less than existing levels.

(Renumbered from Sec. 5-1136 by Ordinance No. 958 6/6/2022)

**Sec. 17-237. Fee-in-lieu of detention.** When approved or required by the local administrator, a developer shall make a monetary payment or some other form of valuable consideration in lieu of building an on-site stormwater detention facility. The local administrator shall make the determination of whether fee-in-lieu of detention will be allowed or required based upon capacity of the receiving stormwater drainage system and whether regional stormwater detention facilities are either proposed or in place. The amount of the fee shall be based on the number of square feet of impervious area added to the property. The developer shall provide the local administrator calculations of the number of square feet of increased impervious area and the local administrator shall prepare a bill for payment of fee-in-lieu of detention. The fee shall be paid at the time the final plat is released for residential developments. The fee shall be paid prior to issuance of any building permit for non-residential developments. When these fees are collected, they shall be deposited into a stormwater capital improvements fund, which will be used for future or ongoing stormwater improvement and regional detention projects. The developer shall be required to provide a stormwater conveyance channel capable of conveying the 1% stormwater runoff from the proposed development to the proposed regional stormwater detention facility.

(Renumbered from Sec. 5-1137 by Ordinance No. 958 6/6/2022)

**Sec. 17-238. Stormwater development permit.**

**A.** A stormwater development permit shall be obtained prior to any development on projects which require platting, site plan approval or alterations to existing public stormwater drainage systems. The minimum submittal requirements shall be as defined in the Wagoner Stormwater Criteria Manual.

**B.** The local administrator shall have the right to waive sections of the permit requirements, subject to the developer providing adequate proof, to the local administrator, the development does not cause adverse impacts to the community.

**C.** The developer shall be responsible for the costs incurred by the City’s stormwater manager in reviewing the proposed development. All such costs shall be reimbursed to the City prior to issuance of a Stormwater Development or Earth Change Permit.

**D.** Review fees shall be established from time to time by the Wagoner Public Works Authority.

(Renumbered from Sec. 5-1138 by Ordinance No. 958 6/6/2022)

## Article C

### ENVIRONMENTAL IMPACTS

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**Sec. 17-251. Introduction.** The requirements of this chapter shall not supersede any applicable local, state, or federal environmental requirements, including those involving wetlands, riparian habitat, water quality, or endangered species.

(Renumbered from Sec. 5-1151 by Ordinance No. 958 6/6/2022)

**Sec. 17-252. Erosion, siltation, and pollution control.** Erosion, siltation, and pollution control shall be provided during the construction phase on all construction sites as necessary to prevent impacts to off-site areas and/or public rights-of-way. The primary goal of erosion, siltation, and pollution controls and Best Management Practices is to minimize erosion, sedimentation, and pollution during construction activities until final grading, landscaping, and storm sewer structures are in place. Best Management Practices include, but are not limited to, seeding, sodding, sprigging, silt fences, straw waddle dikes, earth dikes or swales, temporary stream crossings, storm sewer inlet protection, temporary sediment basins, rock check dikes, and stabilized construction entrances. Failure to provide erosion, siltation, and pollution control protection can result in suspension of the Earth Change, Stormwater Development, Floodplain Development, and Building Permits. A violation of this section by failure to comply with any of its requirements shall constitute a misdemeanor. Provided, that each lot upon which such violation occurs shall constitute a separate offense, and each day on which a violation occurs or is allowed to remain shall constitute a separate offense. The imposition of criminal sections shall not prevent the City of Wagoner from taking any lawful action as is necessary to prevent or remedy a violation.

(Renumbered from Sec. 5-1152 by Ordinance No. 958 6/6/2022)

**Sec. 17-253. Stormwater illicit discharges purpose and intent.** The purpose of this section is to regulate nonstormwater discharges to the City of Wagoner stormwater drainage system to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) and the Oklahoma Pollutant Discharge Elimination System (OPDES) permit requirements. The objectives of this section are:

1. To regulate the contribution of pollutants to the municipal separate storm sewer system by stormwater discharges by any person;
2. To control the introduction to the municipal separate storm sewer system of spills, dumping, or the disposal of materials other than stormwater;
3. To prohibit illicit connections and illicit discharges to the municipal separate storm sewer system;

4. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with this section;
5. To establish procedures for enforcement of this section;
6. To establish abatement and remediation procedures for this section; and
7. To establish penalties for noncompliance with this section.

(Renumbered from Sec. 5-1153 by Ordinance No. 958 6/6/2022)

**Sec. 17-254. Definitions and abbreviations.** The following definitions shall apply to this article:

1. **Accidental discharge:** A discharge prohibited by Sec. 17-260 of this Article into the municipal separate storm sewer system, the watercourses of the City, or waters of the state or United States which occurs by chance or mishap and without planning or consideration prior to occurrence.
2. **Authorized enforcement agency:** The City of Wagoner or its designated representative.
3. **Best Management Practices (BMPs):** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
4. **Channel:** A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
5. **Construction activity:** Activities include, but are not limited to, clearing, grubbing, grading, regrading, landfilling, excavating, berming, and diking of land, and includes land disturbance activities for the purpose of constructing a structure at some time.
6. **Construction site:** A site where construction activities occur.
7. **Contamination:** The introduction of materials including, but not limited to, pesticides, herbicides, septic leaks, or other toxic substances into a natural system.
8. **Discharge:** To cause or allow to throw, drain, release, dump, spill, empty, emit, or pour any liquids, pollutants or other materials into the municipal separate storm sewer system.
9. **EPA:** The United States Environmental Protection Agency.
10. **Erosion:** The mobilization of soil as a result of loss of vegetative cover, scouring by runoff, or associated with slope instability.
11. **Grading:** Excavation or fill of material, including the resulting conditions thereof.
12. **Hazardous materials:** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
13. **Illicit discharge:** Any discharge, except those defined as accidental discharges, to the municipal separate storm sewer system, any watercourse of the City, or any water of the state or United States that is not composed entirely of stormwater, except discharges pursuant to any OPDES or NPDES permit and discharges allowed per this chapter. [it Illicit connections: An illicit connection is defined as either of the following: any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the stormwater drainage system including, but not limited to, any conveyances which allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the stormwater drainage system and any connections to the stormwater

drainage system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the stormwater drainage system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**14. Industrial activity:** Activities that are subject to NPDES industrial permits as defined in 40 CFR § 122.26(b)(14).

**15. Infiltration:** The process of percolating stormwater into the subsoil.

**16. Municipal separate storm sewer system (MS4):** A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that are owned or operated by the City and are designed or used for collecting or conveying stormwater.

**17. National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit:** A permit issued by the EPA (or by a state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**18. Nonstormwater discharge:** Any discharge to the stormwater drainage system that is not composed entirely of stormwater.

**19. ODEQ:** The Oklahoma Department of Environmental Quality.

**20. OPDES:** Oklahoma Pollutant Discharge Elimination System.

**21. Owner:** The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**22. Pollutant:** Any substance which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; liquid and solid wastes; yard wastes; refuse, rubbish, garbage, litter, floatables, and discarded or abandoned equipment; chlorinated or salt water from swimming pools; hazardous materials; medical waste; biological materials; chemical waste; sediment; concrete wash-out; heat; sewage; fecal coliform; pathogens; dissolved and particulate metals; animal or agricultural wastes; wastes and residues that result from constructing a building or structure and/or altering premises; and noxious or offensive matter of any kind.

**23. Sediment:** The soil particles (such as clay, sand, silt and gravel) and organic particulates transported by storm runoff and streamflow. Also, solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by air, water, gravity or ice and has come to rest on the earth's surface either above or below water level.

**24. Stormwater:** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**25. Stormwater manager:** The person responsible for the implementation of the City of Wagoner MS4 stormwater management program or his/her designee(s).

**26. Summary abatement:** Action taken by the City of Wagoner or its agents to abate a violation without prior notice to the property owner or other interested parties.

**27. Wastewater:** Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

**28. Watercourse:** A natural or artificial channel or conduit through which water flows.

**29. Watershed:** The land area that drains water, sediment, dissolved materials and other matter to a common receiving body or outlet such as a stream, river or lake. The term is not restricted to surface water runoff and includes interactions with subsurface water.



(Renumbered from Sec. 5-1154 by Ordinance No. 958 6/6/2022)

**Sec. 17-255. Applicability.** This chapter shall apply to all water entering the stormwater drainage system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(Renumbered from Sec. 5-1155 by Ordinance No. 958 6/6/2022)

**Sec. 17-256. Responsibility for administration.** The stormwater manager shall administer, implement, and enforce the provisions of this chapter.

(Renumbered from Sec. 5-1156 by Ordinance No. 958 6/6/2022)

**Sec. 17-257. Ultimate responsibility.** The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

(Renumbered from Sec. 5-1157 by Ordinance No. 958 6/6/2022)

**Sec. 17-258. Watercourse protection.** Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures, within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Renumbered from Sec. 5-1158 by Ordinance No. 958 6/6/2022)

**Sec. 17-259. Accidental discharges.**

**A.** Notwithstanding other requirements of law, as soon as any person has information of any known or suspected release of any discharge or hazardous substance in amounts which could constitute a threat to human health or the environment, the owner, operator, or responsible party shall give notice to the City of Wagoner's stormwater manager and the field office of the Oklahoma Department of Environmental Quality as soon as practicable, but in no event later than the close of business on the day following the accidental discharge or the day the discharger becomes aware of the circumstances.

**B.** If emergency response by governmental agencies is needed, the owner, operator, or responsible party shall call 911 immediately to report the discharge. A written report must be provided to the City of Wagoner's stormwater manager within ten days of the time the discharger becomes aware of the circumstances.

**C.** If the discharge of prohibited materials emanates from a private property, commercial establishment, or industrial establishment, the owner or operator shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Renumbered from Sec. 5-1159 by Ordinance No. 958 6/6/2022)

**Sec. 17-260. Illicit discharge prohibitions.**

**A.** No person shall discharge or cause to be discharged into the municipal stormwater drainage system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants. The commencement, conduct or continuance of any unlawful discharge is prohibited.

**B.** It is unlawful for any residence or business to allow drainage of a polluting substance or to allow drainage of water which may become a hazard into any street, alley, sidewalk, or drainage system.

**C.** The following discharges are exempt from discharge prohibitions established by this section unless the stormwater manager determines that the type of discharge, whether singly or in combination with others, is causing contamination of surface water, stormwater or groundwater or causes overload or damage to the municipal separate storm sewer system or has the potential to endanger public health and safety:

1. Waterline flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, individual residential car washing, noncommercial or charity washing of vehicles, natural riparian habitat or wetland flows, swimming pool water, if dechlorinated, fire hydrant flushings, firefighting activities, and any other water source not containing pollutants;
2. Discharges specified in writing by the stormwater manager as being necessary to protect public health and safety;
3. Dye testing using nontoxic dye is an allowable discharge, but requires a verbal or written notification to the stormwater manager prior to the time of the test; and
4. The prohibition shall not apply to any nonstormwater discharge permitted under a NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the stormwater drainage system.

(Renumbered from Sec. 5-1160 by Ordinance No. 958 6/6/2022)

**Sec. 17-261. Prohibition of illicit connections.**

- A. The construction, use, maintenance or continued existence of illicit connections to the stormwater drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- B. A person is considered to be in violation of this section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(Renumbered from Sec. 5-1161 by Ordinance No. 958 6/6/2022)

**Sec. 17-262. Monitoring of discharges.**

- A. The stormwater manager shall be permitted to enter facilities, premises, and watercourses subject to regulation under this chapter for the purpose of observations, measurements, sampling, testing and inspections as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
- B. Facility operators shall allow the stormwater manager ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a NPDES or OPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law. Any permits, pollution prevention plans, or other documents regarding a facility's stormwater discharge shall be made available to the stormwater manager when requested.
- C. The stormwater manager shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
- D. The stormwater manager has the right to require the permitted discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- E. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the

stormwater manager and shall not be replaced. The costs of clearing such access shall be borne by the operator.

**F.** Unreasonable delays in allowing the stormwater manager access to a permitted facility is a violation of a stormwater discharge permit and of this chapter. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.

**G.** If the stormwater manager has been refused access to any part of the premises from which stormwater is discharged, and the City of Wagoner is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City of Wagoner may seek issuance of a search warrant from any court of competent jurisdiction.

(Renumbered from Sec. 5-1162 by Ordinance No. 958 6/6/2022)

**Sec. 17-263. Low Impact Development.**

**A.** Low Impact Development (LID) is an innovative, ecosystem-based approach to land development and stormwater management that works with nature to manage stormwater as close to its source as possible. The goal of LID design is to maintain the integrity of each watershed by maintaining the natural predeveloped hydrology on each development site as best possible. LID employs principles that consider stormwater as a resource rather than a waste product. LID is a blend of measures that includes conservation, minimization of impacts, maintaining existing hydrology patterns, integrated management practices, and pollution prevention techniques. Examples of commonly used LID practices include bio-retention and infiltration basins, such as inverted vegetated islands within parking lots, rain gardens, reduced impervious areas, vegetated swales, rain barrels and cisterns, and pervious pavements.

**B.** The City encourages use of Low Impact Development and recommends that such practices be incorporated into existing and proposed site development. The science, engineering, methodologies, and technologies associated with LID are continually being developed and updated. For the current best management practices (BMPs) suggested for consideration, refer to the United States Environmental Protection Agency web site, the design criteria and engineering construction standards of other communities, trade organizations, and others.

**C.** Proposed developments designed to achieve low impact development goals shall meet design and best management practices as set forth in the references stated above.

(Renumbered from Sec. 5-1163 by Ordinance No. 958 6/6/2022)

**Sec. 17-264. Post-construction stormwater impacts.**

**A.** The purpose of this section is to address the operation and maintenance requirements of post-construction best management practices and stormwater drainage systems within the City of Wagoner to reduce or eliminate post-construction adverse stormwater quality and quantity impacts to the municipal separate storm sewer system, any watercourse of the City, or any waters of the state or United States.

**B.** For the purposes of this section, the following shall mean:

**C.** Post-construction: The general time period referenced in perpetuity after the final acceptance of the construction phase of any construction activity identified in subsection (D) below.

**D.** This section shall be applicable to all post-construction Best Management Practices and stormwater drainage systems on developments which require or required platting, site plan approval, or

alterations to existing public stormwater drainage systems. Post-construction operation and maintenance of private best management practices and private drainage systems on single-family residential properties are exempt from the requirements of this section.

**E.** Operation and maintenance of post-construction Best Management Practices and stormwater drainage systems shall be performed in such a manner so that adverse stormwater quality and quantity impacts to stormwater drainage systems and receiving streams both on the subject property and on off-site properties are avoided, reduced, or eliminated. Adverse stormwater quality and quantity effects for the purposes of this section include: increased flood elevations, erosion, siltation, sedimentation; reduced base flow; pollution; and degradation of water quality.

**F.** Stormwater drainage systems for the purposes of this section include any facility, structure, improvement, development, equipment, property or interest therein, including structural and non-structural elements, which are made, constructed, used or acquired for the purpose of collecting, containing, storing, conveying, filtering, treating, infiltrating and controlling stormwater. This includes, but is not limited to, detention facilities, retention facilities, sediment basins, ponds, lakes, engineered open channels, natural channels, floodplains, creeks, storm sewers, conduits, pipes, borrow ditches, swales, roadways, infiltration systems, rain gardens, and bio-retention filters.

**G.** Post-construction best management practices and stormwater drainage systems shall be operated and maintained so that property owners located downstream from and upstream from the development shall not be injuriously affected.

**H.** Operation responsibility of post-construction best management practices and stormwater drainage systems shall be borne by the property owner.

**I.** Maintenance responsibility of post-construction best management practices and stormwater drainage systems shall be borne by the property owner.

**J.** In the event that the owner fails to properly operate or maintain the post-construction best management practices and stormwater drainage systems such that negative stormwater quality or quantity impacts to the municipal separate storm sewer system, any watercourse of the City, or any waters of the state or United States or stormwater drainage systems and or receiving streams either on the subject property or on off-site properties occurs or is imminent, the City of Wagoner, Oklahoma, may order compliance with this section by written notice of violation (NOV) to the owner. Such notice may require without limitation:

1. The performance of monitoring, analysis, and reporting;
2. The elimination of illicit discharges or connections;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of stormwater pollutants and restoration of any affected property;
5. The implementation of source control or treatment best management practices; and
6. Payment of penalties as set forth as a misdemeanor.

**K.** If abatement of a violation or the restoration of affected property is required, the notice of violation shall set forth a deadline that such remediation or restoration must be completed. Said notice of violation shall further advise that should the violator fail to complete the remediation or restoration within the established deadline, the work may be performed by the City of Wagoner, or its designated contractor, and the cost shall be paid by the owner.

(Renumbered from Sec. 5-1164 by Ordinance No. 958 6/6/2022)

**Sec. 17-265. Environmental impacts appeals and variance process.** Appeals and variances of decisions of the stormwater manager as provided herein shall be heard by the stormwater drainage board as established in this Chapter.

(Renumbered from Sec. 5-1165 by Ordinance No. 958 6/6/2022)

## Article D

### STORMWATER FEE SCHEDULES

Sec. 17-271.	Fee-in-lieu of detention rate. . . . .	17.23
Sec. 17-272.	Stormwater development permit fee. . . . .	17.23
Sec. 17-273.	Stormwater Management Fee. . . . .	17.23

**Sec. 17-271. Fee-in-lieu of detention rate.** A fee-in-lieu of detention rate shall be established from time to time by the City Council. The rate shall be established per square foot of increased impervious area added to the property as detailed in Sec. 17-237.

(Amended: Ordinance No. 943 1/7/2019); (Renumbered from Sec. 5-1171 by Ordinance No. 958 6/6/2022)

**Sec. 17-272. Stormwater development permit fee.** A stormwater development/earth change permit fee shall be established from time to time by the City Council. A fee as established by the City Council shall be paid for each stormwater development permit application.

(Amended: Ordinance No. 943 1/7/2019); (Renumbered from Sec. 5-1172 by Ordinance No. 958 6/6/2022)

**Sec. 17-273. Stormwater Management Fee.** . A stormwater management fee is hereby established for the evaluation, design, construction, operation and maintenance of a stormwater management system, the rate of said fee to be determined by the Wagoner Public Works Authority.

(New: Ordinance No. 958 6/6/2022)

## Article E

### PENALTIES FOR NONCOMPLIANCE

Sec. 17-281.	Penalties and administrative remedies. . . . .	17.23
Sec. 17-282.	Penalty for noncompliance. . . . .	17.25

#### **Sec. 17-281. Penalties and administrative remedies.**

##### **A. Notice of violation.**

1. Whenever the City of Wagoner finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the stormwater manager may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- a. The performance of monitoring, analyses, and reporting;
- b. The elimination of illicit connections or discharges;
- c. That violating discharges, practices, or operations shall cease and desist;
- d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- e. Payment of fines, abatement and remediation costs; and
- f. The implementation of source control or treatment BMPs.

2. The notice of violation shall set forth a notification and compliance period of at least 15 days for the violator to comply with the requirements of the notice or submit in writing to the stormwater manager an explanation of the violation and a satisfactory plan for the correction and prevention of the violation, except that when an imminent hazard exists the stormwater manager may require that corrective work begin immediately. The notification and compliance period will begin on the day the notice is mailed to the violator or the day the notice is posted on

the property having the violation, except that when an imminent hazard exists the stormwater manager may order an immediate summary abatement action to abate the violation. At the time of mailing of notice, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the recipient. Said notice shall further advise that, should the violator fail to comply with the requirements of the notice by the established deadline, the work necessary to achieve compliance may be done by the City of Wagoner or a designated contractor and the costs thereof shall be charged to the violator. Submittal of a satisfactory plan for the correction and prevention of the violation in no way relieves the person of liability for any violation(s) occurring before or after receipt of the notice of violation. Issuance of a notice of violation shall not be a prerequisite to taking any other enforcement action.

**B. Penalty.** A violation of any provision of this chapter by failure to comply with any of its requirements shall constitute a misdemeanor, and any person or entity convicted thereof shall be punishable as set forth in the Wagoner Code of Ordinances. Provided that each lot upon which such violation occurs shall constitute a separate offense; and each day on which a violation occurs or is allowed to remain shall constitute a separate offense. The imposition of criminal sections shall not prevent Wagoner from taking any lawful action as is necessary to prevent or remedy a violation.

**C. Abatement, remediation and restoration.**

1. Prior to commencement by the City of Wagoner of any abatement, restoration, remediation, or other ordered work, the City of Wagoner shall file a notice of lien with the county clerk describing the property and stating that the City claims a lien on the property for the abatement, restoration, or remediation costs and that such costs are the personal obligation of the property owner, except that when an imminent hazard exists the stormwater manager may file a notice of lien as soon as practicable after the initiation of any summary abatement action.

2. If the violation has not been corrected pursuant to the requirements and within the time period set forth in the notice of violation, then agents of the City of Wagoner or a designated contractor are authorized to enter upon the subject property to perform the required abatement, restoration, remediation, or other ordered work.

3. It shall be unlawful and constitute a misdemeanor for any person, owner, agent or person in possession of any premises to refuse to allow the authorized enforcement agency or designated contractor to enter upon the premises for the purposes set forth above.

**D. Demand for payment, liens, and certified statements of cost.** After abatement, restoration, or remediation of a violation has occurred, the stormwater manager shall determine the actual cost of the abatement, restoration, or remediation and any other expenses as may be necessary in connection therewith, including, but not limited to, sampling and field testing costs, laboratory costs, and the cost of the notice and mailing. The City of Wagoner shall forward by mail to the property owner a statement of the actual cost and demanding payment. At the time of mailing of notice, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the recipient. If the amount due is not paid within 30 days from the date of mailing of the statement, the City of Wagoner shall forward a certified statement of the amount of cost to the county treasurer of the county in which the property is located, and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. The cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer and shall continue until the cost shall be fully paid. Any person violating any of the provisions of this chapter shall become liable to the City by reason of such violation. At any time prior to the collection as provided herein the City may pursue any civil remedy for collection of the amount owing and interest thereon.

**E. Suspension of MS4 connection.**

1. The stormwater manager may suspend an MS4 discharge connection to a property when such suspension is necessary to stop an actual or threatened discharge which presents or may present

imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of Oklahoma. If the violator fails to comply with a suspension order issued in an emergency, the stormwater manager may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of Oklahoma, or to minimize danger to persons.

**2.** A person commits an offense if the person reinstates the MS4 connection to premises terminated pursuant to this chapter, without the prior approval of the stormwater manager.

**F.** Water supply severance. Whenever a person or industry has violated or continues to violate the provisions of this chapter or orders issued hereunder, the stormwater manager may authorize the water service to be severed. Service will only recommence, at the violator's expense, after the violator has satisfactorily demonstrated an ability to comply, and actual compliance.

**G.** Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City of Wagoner may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

**H.** Violations deemed a public nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. The stormwater manager may authorize summary abatement actions to protect public health, safety, and welfare. Authorization of a summary abatement action shall grant agents of the City of Wagoner or a designated contractor the right to enter upon the subject property to perform the required summary abatement work.

**I.** Injunctive relief. It shall be unlawful and constitute a misdemeanor for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the City of Wagoner may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**J.** Remedies not exclusive. The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Wagoner to seek cumulative remedies.

(Renumbered from Sec. 5-1181 by Ordinance No. 958 6/6/2022)

**Sec. 17-282. Penalty for noncompliance.** Violation of the provisions of this Chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined as provided in Title 18 of this *Code* for each violation, and in addition shall pay all costs and expenses involved in the case. Provided that each lot upon which a violation occurs shall constitute a separate offense; and each day on which a violation occurs or is allowed to remain shall constitute a separate offense. Nothing herein contained shall prevent the City Council of the City of Wagoner or the City Attorney from taking such other lawful action as is necessary to prevent or remedy any violation.

(Renumbered from Sec. 5-1182 by Ordinance No. 958 6/6/2022)

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# Title 18

## VIOLATIONS

### Chapter 1

#### VIOLATION OF CODE

Sec. 18-101.	Definition. . . . .	18.1
Sec. 18-102.	Violations misdemeanors. . . . .	18.1
Sec. 18-103.	Penalty. . . . .	18.1
Sec. 18-104.	Continuous violations. . . . .	18.1
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Sec. 18-107.	Costs of prosecution. . . . .	18.2
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**Sec. 18-101. Definition.**

A. “Violation of this Code” means any of the following:

1. The doing or performing an act that is prohibited by this Code;
2. The doing or performing an act that is made or declared unlawful by this Code;
3. The doing or performing an act that is made or declared an offense by this Code; or
4. The failure to do or perform an act that is required to be done or performed by this Code.

B. “Violation of this Code” does not include the failure of a City officer or City employee to perform an official duty unless it is provided that failure to perform such act or duty is to be punished as provided in this Title.

**Sec. 18-102. Violations misdemeanors.** Except as otherwise expressly provided in this Code, all violations of this Code are declared to be misdemeanors.

**Sec. 18-103. Penalty.** In the absence of provisions to the contrary, including but not limited to a specific penalty, a person convicted of a violation of this Code shall be punished by a fine, excluding costs and fees, or a deferral fee in lieu of a fine as follows:

A. For exceeding the posted speed limit by no more than ten (10) miles per hour upon any portion of the National System of Interstate and Defense Highways, federal-aid primary highways, or the state highway system which is located on the outskirts of the City as determined by the Statutes of the State of Oklahoma a fine not to exceed Ten Dollars (\$10.00) and court costs not to exceed Fifteen Dollars (\$15.00);

B. For all other traffic-related offenses relating to speeding or parking a fine not to exceed Two Hundred Dollars (\$200.00);

C. For alcohol-related or drug-related offenses a fine not to exceed Eight Hundred Dollars (\$800.00);

D. For violations ordinances regulating the pretreatment of wastewater and regulating stormwater discharges a fine not to exceed One Thousand Dollars (\$1,000.00));

E. For all other offenses a fine not exceed Seven Hundred Fifty Dollars (\$750.00).

**Sec. 18-104. Continuous violations.** With respect to violations of this Code that are continuous with respect to time, each day the violation continues shall constitute a separate offense.

**Sec. 18-105. Aiding and abetting.** Any person who shall aid, abet or assist in a violation of this Code shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to the same punishment as the person aided, abetted or assisted.

**Sec. 18-106. Revocation or suspension of a license, permit or franchise.** The imposition of a penalty provided for by this Title shall not prevent revocation or suspension of a license, permit or franchise.

**Sec. 18-107. Costs of prosecution.** When a person is convicted of a Violation of this Code, the cost of prosecution of such violation shall be the maximum amount allowed by the Statutes of the State of Oklahoma and shall be taxed against such person as a part of the penalty. When the penalty assessed against such person is a deferred sentence the costs imposed shall be the same as costs imposed for a conviction of such violation.

**Sec. 18-108. Limit of penalty.** No penalty imposed by this Title shall exceed a penalty, including fine or deferral fee in lieu of a fine and costs, greater than that established by the Statutes of the State of Oklahoma for the same offense.